



MANUAL OF PROCEDURAL GUIDANCE FOR PESTICIDE ENFORCEMENT PERSONNEL

June 24, 1999

TABLE OF CONTENTS

<u>Subject</u>	<u>Page</u>
Regional Office Locations	xiii
Satellite Office Locations	xiii
Introduction	xv
Code Abbreviations	xv
Chapter 1. Licenses and Certificates Overview	1
Pest Control Licenses Required	1
Refusal, Revocation, or Suspension of a County Registration	3
Conditioning a County Registration	3
Chapter 2. Broker	4
Pesticide Broker License	4
Who Needs It?	4
Exemptions	4
What's Required to Obtain It?	4
Additional Requirements When Licensed	5
Chapter 3. Dealer	6
Pest Control Dealer License	6
Who Needs It?	6
Exemptions	6
What's Required to Obtain It?	6
Additional Requirements When Licensed	7
Authority to Inspect Dealer Records	7
Sales of Both Federal and California Restricted Materials	7
Dealer-Designated Agent License	8
Who Needs It?	8
Exemptions	8
What's Required to Obtain a License?	8
Additional Requirements	8
Cooperative Supplying Pesticides	10
Dual-use Pesticide	10
Livestock Sprays and Spray Devices	11
Pesticide Sales Without a Recommendation	11
Predators, Parasites, and Disease Producing Organism Dealers	12
Veterinarians Selling Pesticides	12

TABLE OF CONTENTS (continued)

<u>Subject</u>	<u>Page</u>
Chapter 4. Agricultural Pest Control Business	13
Pest Control Business License (Agricultural)	13
Who Needs It?	13
Exemptions	13
What's Required?	13
Additional Requirements	14
Agricultural Pest Control Business Licensing Procedure	15
County Registration of Ag. Pest Control Businesses	15
Home County Registration (Business License Address)	16
Out-of-County Locations Registration	17
Agricultural Pest Control Business Policies	18
Aquatic Pest Control	18
Biological Control Agents	18
Biological Control Use	18
Chemical Liability	18
Farm Management Firms	18
Fee Exempt Neighborhood Operators	19
Foliar Nutrient Spray Application	20
Landscaping or New Construction -- Pest Control	20
Livestock Sprays and Spray Device Dealers	20
Maintenance Gardeners and Landscape Services	21
Maintenance Gardeners PCB License Scope	21
Packing Houses and Other Processors	22
Packing Houses -- Post-harvest Treatment	22
Pest Control Equipment Rental Companies	23
Pool Service Companies	23
Research and Demonstration	23
Vertebrate Pest Control	23
Woodcutting -- Incidental Pest Control	24
Wood, in Ground Pole, or Railroad Tie Treaters for Hire	24
Wood Treatment and Wood Preservative	24
Chapter 5. Qualified Applicator	25

TABLE OF CONTENTS (continued)

<u>Subject</u>	<u>Page</u>
Who Needs It?	25
What's Required?	25
Additional Requirements	26
Qualified Applicator Certificate	26
Who Needs It?	26
What's Required?	26
Additional Requirements	27
Residential, Industrial, and Institutional (A)	28
Landscape Maintenance (B)	28
Right-of-Way (C)	28
Plant Agriculture (D)	29
Forest (E)	29
Aquatic (F)	29
Regulatory (G)	29
Seed Treatment (H)	29
Animal Agriculture (I)	30
Demonstration and Research (J)	30
Health Related (K)	30
Wood Preservatives (L, Subcategory of A, C and I)	30
Antifouling Tributyltin (M, Subcategory of A)	30
Golf Course, Cemetery and Park Superintendents	31
Chapter 6. Private Applicator Certificate	32
Who Needs It?	32
What's Required?	32
Private Applicator Certificate Procedures	33
First-time Certification or Renewal by Exam Procedures	33
Renewal by Continuing Education Procedures	34
Private Applicator Certificate Card	35
Chapter 7. Pilot	36
Aircraft Pilot Pest Control Certificate	36
Who Needs It?	36
What's Required?	36
Apprentice Pest Control Aircraft Pilot Certificate (AP)	36

TABLE OF CONTENTS (continued)

<u>Subject</u>	<u>Page</u>
Journeyman Pest Control Aircraft Pilot Certificate (JP)	36
Additional Requirements	37
Pest Control Aircraft Pilot Certification Procedure	37
Supervision of Apprentice Pilots	38
County Registration of Pilots	38
Procedures for Handling Registration in Person	38
Procedures for Registration Forms Received by Mail	39
Registering the Pilot	39
Private Pilots	39
Vector Control District Pilots	39
Chapter 8. Adviser	40
Agricultural Pest Control Adviser License	40
Who Needs It?	40
Exemptions	40
What's Required?	41
Categories	41
Additional Requirements	41
Agricultural Pest Control Adviser Licensing Procedure	42
Procedure for Registering the Adviser	42
Home County Registration -- in Person	42
Out-of-County Registration -- Mail	43
Authorized Representatives	43
Agricultural Use Definition	44
Home Use Definition	45
Institutional Use Definition	45
Industrial Use Definition	45
Biological Control Agents	46
Farm Management Firms	46
Golf Course Superintendents	46
Landscape Architects	46
Property Operators and Their Employees	47
Public Employees	47
Recommendations	48

TABLE OF CONTENTS (continued)

<u>Subject</u>	<u>Page</u>
Recommendations -- Agricultural Pest Control	49
Recommendations -- Distribution of Copies	49
Recommendations -- Hazards Known to Exist	49
Recommendations -- Label Restrictions	50
Recommendations -- Signing	50
Recommendations -- Written	51
Registered Professional Foresters	51
Responsibility	51
Seed Treaters	51
Chapter 9. Structural Pest Control Company	52
Structural Pest Control Company Registration	52
Who Needs It?	52
Exemptions	52
What's Required?	52
Additional Requirements	53
Aerosol Container Disposal	53
Chloropicrin as a Warning Agent	54
Warning Signs	54
Chapter 10. Structural Pest Control Operator	55
Structural Pest Control Operator License	55
Who Needs It?	55
Exemptions	55
What's Required?	56
Additional Requirements	56
Pesticide Sales to Structural Pest Control Operators	57
Chapter 11. Structural PC Field Representative	58
Structural Pest Control Field Representative License	58
Who Needs It?	58
Exemptions	58
What's Required?	58
Additional Requirements	59
Chapter 12. Structural Pest Control Applicator	60
Structural Pest Control Applicator License	60

TABLE OF CONTENTS (continued)

<u>Subject</u>	<u>Page</u>
Who Needs It?	60
What's Required?	60
Additional Information	60
Structural Pest Control Defined	61
 Chapter 13. General Policy Guidelines	 63
Authority to Inspect	63
Backflow Prevention	63
Bag Disposal	64
Land Disposal	64
Bag Burning	65
Complaints Investigation Policy of DPR	65
Drift	66
Drift -- Enforcement	66
Drift -- Regulatory Standards	67
Drift -- U.S. EPA Aerial Application Guidance Document	68
Emergency Preparedness--Keeping Pesticides Out of Floodwaters	68
Formaldehyde -- OSHA Standard	69
Faulty Recommendations Followed by Applicators	70
Fraudulent Pesticide Sales	70
Harvest Prohibition	71
Home Garden and Ranchette Use	72
Interplanted Crops	73
Rinsate Disposal	73
Sharecroppers	74
Smoke: Requirement for a Visible Column	74
Statute of Limitations	74
Civil Penalties Pursuant to FAC	75
Civil Penalties Pursuant to the B&PC	75
Treated Area	76
Unattended Pesticides	76
Vehicle Posting	77
Wildlife-related Pesticide Inquiries	77

TABLE OF CONTENTS (continued)

<u>Subject</u>	<u>Page</u>
Report Pesticide-related Fish or Wildlife Losses	77
Information on the Endangered Species Act	78
Wind Velocity Determination	78
 Chapter 14. Disclosure of Pesticide Records	 79
Department Policy Regarding the Release of Public Records	79
Division Policy on Release of Medical Records	79
Doctor's First Report	81
Other Records Generated by a Pesticide Investigation	82
Records of Complaints	82
Records Not Open to Inspection by the Public	83
Request to Inspect Public Record	84
 Chapter 15. Labeling	 85
FIFRA § 2.136 Definitions	85
Information Requests and Label Interpretations	85
Directional Versus Informational Label Statements	86
Informational Statements	86
Directional Statements	87
Conflict with Labeling Exemptions	87
Label Policies	89
Active Ingredient -- Seasonal Use	89
Aerial Versus Ground Applications	89
Applicator Statements	89
Avoid Breathing Spray Mist	90
Bait Boxes -- Tamper Resistant	90
Bait Boxes -- Urban Areas	91
Bait Station Labeling	92
Bait Station -- Structural	92
Chemigation	93
Crack and Crevice Treatment	93
Deodorizers	93
Diluents	94

TABLE OF CONTENTS (continued)

<u>Subject</u>	<u>Page</u>
Dual-Use Pesticides	94
Fallow Land	95
Feeding Restrictions	95
Food Areas	96
Food Handling Establishment	96
Forestry Uses	97
General Treatment	97
Greenhouse Use	97
Greenhouse Use Electrostatic Sprayers	98
Greenhouse Use of Foggers	99
Greenhouse Grown Food Crops	99
Greenhouse Grown Vegetable Transplants	99
Harvest Date	100
Home Use	100
Non-bearing Crop Uses	100
Non-crop Land	101
Non-food Areas	101
Ornamental	102
Pasture	102
Physically Present	102
Plant Back Restrictions	103
Precautionary Statements	103
Preplant	104
Rangeland	104
Season	104
Soil Incorporation	104
Spot Treatment	104
Sprinkler Applications	105
Site Interpretations	105
Surfactants	106
Tank Mixes of Pesticides	106
Fertilizer	106
Vegetable Oils	107

TABLE OF CONTENTS (continued)

<u>Subject</u>	<u>Page</u>
Spray Adjuvants	107
Diluents	107
Vikane, Mattresses and Nylofume Bags	107
Waterfowl in Alfalfa	108
Wood Intended for Cooking	108
Worker Protection Standard	109
Supplemental Labeling	109
FIFRA Section 24c Special Local Needs	109
First Party Special Local Needs	109
Third-party Special Local Need Registrations	110
Information Regarding Special Local Need Registrations	111
Section 18 -- Emergency Exemption Registration	112
FIFRA Section 18	112
Emergency Exemptions	112
Section 18 Residue Action Levels	112
Section 18 Types	112
Specific Exemption	112
Crisis Exemption	113
Permit Requirements Section 24(c) and Section 18	114
Section 18 -- Conflict with Directions	114
Chapter 16. Worker Safety	115
History	115
Resources	116
Pesticide Safety Information Series	116
Consumer Fact Sheets	117
Guidelines for Physicians Who Supervise Workers	118
Accessible Defined	118
Arid Area Reentry Interval	118
Assume the Risk	118
Cholinesterase Laboratories	119
Cholinesterase Testing Methods	119
Closed System Criteria	119
Closed System Suppliers	120

TABLE OF CONTENTS (continued)

<u>Subject</u>	<u>Page</u>
Decontamination -- How Much Water is Enough?	120
Decontamination -- Training Violation	120
Employees Laundering Coveralls	120
Employer or Employee	121
Enclosed Cabs and Cooled Chemical Suit	121
Equipment Cleaning and Decontamination	121
Fumigation -- Accident Response Plans	121
Fumigation -- Tarp Pullers as Handlers	122
Fumigation -- Tree Hole	122
Fumigation -- Two Trained People	122
Handling	123
Handling -- Government Personnel	123
Hazard Communication -- Display	123
Hazard Communication -- Grower Responsibility	123
Hazard Communication -- MSDS Availability	124
Hazard Communication Program	125
Hazard Communication -- Records	125
Immediate Family Defined	126
Notice of Application	126
Likely to Enter	126
Notice of Application -- Field Posting	127
PPE Chemical Resistant Materials	127
PPE Coveralls	128
PPE Coveralls and Chemical-Resistant Suit	128
PPE Eyewear and Antimicrobials	129
PPE Eyewear and Closed Systems	129
PPE Gloves, Disposable	129
PPE Label Statement Interpretation	130
PPE Respirator Designations	131
PPE Respirator Employer Responsibility	132
PPE Respirator Inspection	132
PPE Respirator Maintenance	133
PPE Respiratory Protection and Dusting Sulfur	134

TABLE OF CONTENTS (continued)

<u>Subject</u>	<u>Page</u>
PPE Respiratory Protection and Enclosed Cabs	135
PPE Respiratory Protection and SCBA Backup	135
Pesticide Illness -- Reasonable Grounds to Suspect	135
Posting -- Fields	135
Posting -- Forest	136
Posting and Restricted Entry Interval -- Interplanted Fields	136
Public Property -- Posting and Restricted Entry	136
Restricted Entry Interval -- Beginning	137
Restricted Entry Interval -- Termination	137
Restricted Entry Interval and Notification -- Forest	137
Seed Crops -- Commercial Agricultural Production	137
Training -- Field Worker	138
Training -- Field Workers Out of State	138
Training -- Handlers and Delayed Effects	138
Training -- Handlers from Out of State	138
Training -- Non-English Speaking Employees	139
Training Verification Program	139
Treated Area	139
Treated Field	139
Worksite and Workplace Defined	140
Chapter 17. Restricted Materials Permits	141
Authority and Responsibilities	141
Restricted Material Permit Issuance	142
Purpose	142
General	142
Permit Evaluation	143
Applicator Certification	146
Operator Responsibility	147
Time Specific	147
Restricted Materials Review and Appeal Process	147
Permit Appeal Process	148
Communication and Advanced Planning	150
Fax- - Approving Amendments	151

TABLE OF CONTENTS (continued)

<u>Subject</u>	<u>Page</u>
Ground Water Protection Permits for Private Applicators	151
Exempt Materials	152
Grower Responsibility	152
Job Permits	152
Residential Areas	152
Home Use Restricted Material Exemption	152
Chapter 18. Pesticide Product Registration	153
Exceptions to the Registration Requirement	153
Unregistered Pesticide Products	154
Chapter 19. Pesticide Use Reporting	155
Agricultural Production -- Pesticide Use Reports	155
Aquatic Treated Site Reporting	155
CalTrans Reporting	156
Commissioner Sales	156
Egg Laying Facilities	157
Fallow and Non-crop Reporting	157
Fish Ponds	157
Grain Fumigation -- NOI Waiver	158
Grape Reporting	158
Late Use Reports	159
Milking Structures and Equipment	159
Monthly Summary Pesticide Use Reports	159
Mushroom Farm -- 100% PUR & Site ID Numbers	160
Negative Use Reports	160
Nursery Use Reports	161
Operator ID Number Issuance	162
Processor-owned Poultry -- Operator ID Numbers	162
Rodent Bait Use by Operator IDs	162
Seed Treating	162
Small Producers	163
Structural Pest Control Operator Reporting	163
Vector Control Districts	163
Wood Pulp	163
Chapter 20. Research Authorizations	164

Index of Subjects	167
Index of Code Sections Cited	181
Index of Business and Professions Code - SPCO	186
Index of DPR Letters and Other References	187

REGIONAL OFFICE LOCATIONS

Anaheim - Kathleen Boyle
Supervising Pesticide Use Specialist
169 East Liberty Avenue
Anaheim, California 92801
(714) 680-7800
Fax (714) 680-7906

Fresno - Al Lomeli
Supervising Pesticide Use Specialist
2895 North Larkin Avenue, Suite B
Fresno, California 93727
(559) 445-5401
Fax (559) 445-6805

Sacramento - George Brady
Supervising Pesticide Use Specialist
3050 Beacon Boulevard, Suite 103
West Sacramento, California 95691-3474
(916) 372-6892
Fax (916) 372-6939

Bakersfield - Mario Ibarra
Senior Pesticide Use Specialist
j 2895 North Larkin Avenue, Suite B
Fresno, California 93727
(661) 665-2060
No fax

Ventura - Susan Johnson
Senior Pesticide Use Specialist

Watsonville - Karen Stahlman
Senior Pesticide Use Specialist

4840 Market Street, Suite D
Ventura, California 93003
(805) 654-4889
Fax (805) 654-4890

136-A San Juan Road
Watsonville, California 95076
(831) 724-9252
Fax (831) 724-6935

Structural Pest Control Board

Department of Consumer Affairs
Structural Pest Control Board
1418 Howe Avenue Suite 18
Sacramento, California 95825
(916) 263-2540
Fax (916) 263-2469

ACKNOWLEDGMENTS

This Pesticide Enforcement Procedures and Policies Manual is authored by a working group from the Pesticide Enforcement Branch of the Department of Pesticide Regulation (DPR).

Karen Stahlman, Central Regional Office, Watsonville
Jim Walsh, Southern Regional Office, Ventura
Mario Ibarra, Central Regional Office, Bakersfield
Wayne Miller, Northern Regional Office, Sacramento
Don Shephard, Chair, Headquarters Office, Sacramento

The manual was skillfully reviewed by each Pesticide Use Enforcement Deputy Area Group. The experience and judgement of the deputies is much appreciated. We also thank Ms. Sandy Todd, Support Services, Headquarters Office, Sacramento, for meticulously editing this manual.

We thank those past and present employees of the department and of the county agricultural commissioners' offices who contributed material, reviewed our work, and contributed suggestions.

DISCLAIMER

The mention of commercial products, their source, or their use in connection with material reported here is not to be construed as either actual or implied endorsement of such product.

INTRODUCTION

The *Procedural Guidance for Pesticide Enforcement Personnel* (previously referred to as the “B Section”) is intended to assist State and county staff in their daily pesticide use enforcement activities and to give an overall perspective of various subjects that are pertinent to the statewide pesticide regulatory program. Many of the topics discussed in this reference manual are those which have generated repeated questions or concerns over the years. We have included new issues where applicable. Many of the policies have been established for years and are generally accepted by the regulated industry and enforcement staff. Whenever possible, we have referred you to the source of the policy such as applicable enforcement letters, information requests, or label interpretations.

These sources have a fuller discussion of the issues. Their number and full title is at the end of most subjects and is *italicized*. This resource should be used in association with the Laws and Regulations, Enforcement Letters, Worker Health and Safety Letters, Information Requests, Label Interpretations and the Senior Pesticide Use Specialist serving your county. Each regional office of the Pesticide Enforcement Branch has a complete set of all county enforcement letters, as well as responses to specific information requests. These resources should be the commissioners' initial information pool for pesticide policy-related questions.

Throughout this manual, we will refer to the codes we use with these abbreviations:

Code	Abbreviation
California Business and Professions Code	B&PC
California Food and Agricultural Code	FAC
Federal Insecticide, Fungicide, and Rodenticide Act	FIFRA
Title 3, California Code of Regulations	3CCR
Title 16, California Code of Regulations	16CCR
Title 40, Code of Federal Regulations	40 CFR

Chapter 1

LICENSES AND CERTIFICATES OVERVIEW

Summary of pest control license and certificate requirements

Title	License Fee	Issuing Agency	Registering Agency	Registration Fee	Code Reference
Broker	\$ 100 main \$ 50 branch Annually	DPR	No additional registration required	N/A	FAC § 12848 FAC § 12848.1
Dealer	\$ 100 main \$ 50 branch Annually	DPR	No additional registration required	N/A	FAC § 12101 FAC § 12103
Dealer - Designated Agent	\$15 Annually	DPR	No additional registration required	N/A	FAC § 12251 FAC § 12252
Pest Control Business	\$ 100 main \$ 50 branch Annually	DPR	Each county where business is conducted	maintenance gardeners not more than \$25 a year	FAC § 11701 FAC § 11703 FAC § 11704 FAC § 11732 FAC § 11734
Qualified Applicator License	\$ 40	DPR	No additional registration required	N/A	FAC § 12201.1 FAC § 12201
Qualified Applicator Certificate	\$25	DPR	No additional registration required	N/A	FAC § 14151 FAC § 14152
Aircraft Pilot	\$25	DPR	County where work is done	\$10 a year first county \$5 each extra county	FAC § 11901 license FAC § 11904 fee FAC § 11921 register

Title	License Fee	Issuing Agency	Registering Agency	Registration Fee	Code Reference
Pest Control Adviser	\$ 40	DPR	Home county and county where work is done	\$10 a year first county \$5 each extra county	FAC § 12021 FAC § 12031 FAC § 12034
Structural Pest Control Business	\$ 120 one-time fee	SPCB	Each branch to register with SPCB		B&PC § 8550 B&PC § 8674
Branch Office	\$ 60 one-time fee		Notify CAC	Notification fee \$ 10	FAC § 15204
Structural Pest Control Operator	\$ 150 for 3 years Exam fee \$25 per branch	SPCB	No additional registration required	N/A	B&PC § 8550 B&PC § 8674
Structural Pest Control Field Representative	\$30 for three years Exam fee \$10 per branch	SPCB	No additional registration required	N/A	B&PC § 8564
Structural Pest Control Applicator License	\$ 15 per category for test, license and renewal	SPCB CAC proctors exam	No additional registration required	N/A	B&PC § 8564.5 B&PC § 8674 (k-l) B&PC § 8590.1

DPR -- Department of Pesticide Regulation

SPCB -- Structural Pest Control Board

Pest Control License required.

Type of pest control	License	Agency	Branch
Agricultural	Agricultural Pest Control Business	Department of Pesticide Regulation	Pesticide Enforcement Branch
Structural	Structural Pest Control Business	Department of Consumer Affairs	Structural Pest Control Board

Application forms for any agricultural license or certificate may be obtained from the commissioner offices or from DPR's Pesticide Enforcement offices (see page 1).

When applications and applicable fees are submitted, they must be postmarked no later than the date indicated on the Examination Schedule. Applicants will be limited to four examinations per examination date. Refer to the application for the appropriate fees.

Refusal, Revocation, or Suspension of a County Registration

FAC § 11735 (Pest Control Operators), *§ 11924* (Pilots), and *§ 12035* (Pest Control Advisers) all provide a statutory basis for the refusal, revocation, or suspension of the county registration of the respective licenses.

Conditioning a County Registration

There is no statutory authority requiring or allowing a commissioner to condition a pilot, agricultural pest control business, or agricultural pest control adviser registration.

Chapter 2

BROKER

FAC § 12848 - § 12848.11

PESTICIDE BROKER LICENSE

Who Needs It?

- C Any person, whether inside or outside California, engaging in the sale or distribution of pesticides labeled for agricultural use in California. All pesticides offered for sale or sold in California must be registered by the Director of DPR.
- C A Pest Control Dealer License is required if the sales are direct to end-users.

Exemptions:

- C Persons already licensed as pest control dealers or registrants selling their own registered product.
- C Persons who operate only as sellers or distributors of California-registered pesticides that are labeled only for non-agricultural use do not require a Pesticide Broker License or a Pest Control Dealer License.

What's Required to Obtain It?

- C Have a Pesticide Broker License issued for each principal and branch location. *FAC § 12848.1.*
- C Fictitious Business Name Statement from the County Clerk's Office.
- C Certificate of Good Standing for companies that are Californian or foreign corporations registered in California which may be obtained for a fee from the Secretary of State.
- C License fee of \$100.00 per year for the principal location and \$50.00 per year for each branch location. *FAC § 12848.1.*

Additional Requirements When Licensed.

- C If the mill assessment has not been paid by the registrant, the pesticide broker or pesticide dealer must pay a quarterly assessment to the Director of DPR, based upon the total dollars of sales, for sales into or within California, of registered pesticides labeled for agricultural use. Also, the first person who sold this product into or within California must list, by line item, the amount due to DPR.
- C Retain records of all purchases, sales and distribution of pesticides for four years at the principal place of business. *FAC § 12848.9.*
- C Submit a quarterly report to the Director with the following: total sales; total pounds or gallons sold; for pesticides intended for agricultural use, to be sold into or within California. *FAC § 12848.9.*

Chapter 3

DEALER

FAC § 12101 - § 12121

PEST CONTROL DEALER LICENSE

Who Needs It?

- ☐ Pesticide retailers who sell agricultural use or dual-use products to users. *FAC § 11407(a).*
- ☐ Those who sell any method or device for the control of agricultural pests, such as biological control agents, lures or insect trapping devices. *FAC § 11407(b).*
- ☐ Those who solicit sales of pesticides by making agricultural use recommendations through field representatives or other agents. *FAC § 11407(c)].*
- ☐ Those who sell restricted materials to users. *FAC § 11407(d).*

Exemptions:

Federal, state, or county agencies providing pesticide materials for agricultural use. *FAC § 12102.*

What's Required to Obtain It?

- ☐ Each principal and branch location must have a person who is responsible for the operation of the dealership and holds a Designated Agent License, Agricultural Pest Control Adviser License, Pest Control Aircraft Pilot Certificate, or a Qualified Applicator License. *3CCR § 6560.*
- ☐ A Fictitious Business Name Statement from the County Clerk's Office *FAC § 12103.*
- ☐ A Certificate of Good Standing, for companies that are corporations, which may be obtained for a fee from the Secretary of State. *FAC § 12103.*
- ☐ A license fee of \$100.00 per year for the principal office and \$50.00 per year for each branch location. *FAC § 12103.*

Additional Requirements When Licensed

The Licensee must:

- Retain at the principal place of business, records of purchases, sales and distribution of pesticides including those of its branch locations for four years. *FAC § 12115.3*
- C Retain written recommendations for two years. *3CCR § 6562.*
- C Retain permits for restricted materials for two years. *3CCR § 6568.*
- C Retain statement of QAL or QAC number received from purchaser for two years. *3CCR § 6568.*
- C Retain Operator Identification Number records for two years. *3CCR § 6568.*
- C Retain Ground Water Protection Statement for two years. *3CCR § 6570.*
- C Report quarterly the assessable sales. *FAC § 12115.3.*
- Report annually, purchases from other than licensed pest control dealer or registrant.
- C Indicate “California mill assessment was paid” or “California mill assessment of 9 mills was paid” on all sales invoices.

Authority to Inspect Dealer Records

Note: *3CCR § 6562* requires the dealer to keep records and produce them for inspection by purchaser name. *FAC § 11456* allows the director to enter and inspect all “premises.” See also *3CCR § 6140* Inspection Authority; *ENF 84-060 Authority to Inspect Dealer Records.*

Sales of Both Federal and California Restricted Materials

3CCR § 6568 requires that the dealer, prior to the sale of a pesticide for which a restricted materials permit is required, obtain a copy of the purchaser's restricted materials permit. A private applicator must have a restricted materials permit to possess or use a California restricted use material. A dealer must have proof that the purchaser is a certified applicator or a certified applicator is designated on a restricted materials permit. A copy of the current license or certificate will verify certification. Certified applicators include private applicator certificate holders, private applicator license holders, structural pest control operators and field representatives, and journeyman pilots.

Prior to the sale of a federally restricted use pesticide (3CCR § 6400a) or a pesticide with potential to pollute ground water (3CCR § 6400d) that does not require a permit for possession or use, the dealer must obtain a copy of the purchaser's certification.

DEALER-DESIGNATED AGENT LICENSE

Who Needs It?

- C Any person who is responsible for supervising the operations of a licensed pest control dealer. Each licensed pest control dealer must maintain a designated agent at the principal office and an agent at each branch location. *FAC § 12101.5 and 3CCR § 6560.*

Exemptions:

- C If the responsible person is a licensed agricultural pest control adviser, qualified applicator licensee, or pest control aircraft pilot certificate holder, then that person may act as the designated agent without further licensing.

What's Required to Obtain a License?

- C Submit a \$15.00 application fee. *FAC § 12252.*
- C Pass a written examination on the sale and use of pesticides and pest control dealer responsibilities. *FAC § 12253.*

Additional Requirements that the Agent Performs for the Employer.

- C Responsible for the active supervision of employees who use and sell pesticides.
- C Exercise responsibility in carrying out the business of a pest control dealer.
- C Prepare and maintain for two years, records of all pesticides sold or delivered.
- C Maintain a copy of each Operator Identification Number.
- C When a pesticide is sold for agricultural use without a recommendation, the invoice or delivery slip must state that no recommendation has been made.

- The designated agent must provide an invoice or delivery slip to the customer or his agent at the time of delivery.
- C Before the sale or delivery of a restricted material, the dealer must obtain a copy of the permit.
 - C Must maintain a copy for two years, of pesticides sold that are on the Ground Water Protection List.
 - C Send a list of Operator Identification Numbers with corresponding names of persons purchasing pesticides during the quarter to each commissioner who issued the numbers. *3CCR § 6568 (d)*.
 - C The dealer is not required to send the list to the commissioner of the county in which the dealer is located.

Examination and licensing of pesticide dealers is performed by DPR. DPR depends upon the commissioner for detection of those businesses making sales of restricted materials or selling pesticides that are for an agricultural use. Applicants must complete the *Application for Pesticide Dealers (PR-ENF-042)* and mail it with the fee to Cashier, DPR. If necessary, refer the matter to the Senior Pesticide Use Specialist for follow-up action.

The designated agent needs to be available to direct and control sales of pesticide products by unlicensed persons. The availability of the designated agent should be directly related to the hazards of the products sold and the volume of pesticide sales. A designated agent may be either a person who has passed the Pesticide Dealer Designated Agent License Examination (a Pesticide Dealer Designated Agent License card holder); a licensed agricultural pest control adviser; a certified pest control aircraft pilot; or a qualified applicator licensee. *ENF 85-015 Recent Changes to Pesticide Dealer Responsibilities*.

NOTE: An individual who wants to qualify as a designated agent should apply using an *Application for Pesticide Dealer's Designated Agent Form (PR-ENF-043)* to be examined. The individual will be issued the License after passing the examination.

Cooperative Supplying Pesticides

If a cooperative handles agricultural use pesticides or restricted use pesticides, it is responsible to meet certain specific requirements in order to be exempt from the pesticide dealer license requirement. The cooperative can meet these requirements by the following:

They must act only as a central receiving point for orders or billings and provide the licensed pesticide dealer that actually supplies the agricultural use pesticide or restricted use pesticide with information required in *3CCR §§ 6562 and 6568*. The supplier must invoice the purchaser to specific purchases. The cooperative must maintain the ownership identity of any pesticide it stores for its members.

Dual-Use Pesticide

Retail stores that sell restricted materials for any use that requires a permit for possession and use, or which may be used only by or under the supervision of a certified applicator, are required to be licensed. Additionally, any retail stores that sell pesticides labeled for dual uses are required to be licensed. *ENF 90-101 Dealers License Requirement for the Sale of Dual Labeled Pesticides*.

The term “Dual-use products” refers to those pesticide labels that have use directions for both home and agricultural use. Only licensed pesticide dealers may sell pesticides that have agricultural uses specified on the registered label, regardless of the other uses that may appear on this labeling. Companies such as Home Depot, Home Base, and Orchard Supply Hardware must obtain a pesticide dealers license prior to selling pesticides with agricultural uses on the label. They must also comply with all applicable pesticide dealer requirements in *FAC §§ 12101 through 12113, and 3CCR §§ 6560 through 6574*. An agricultural pest control business that sells or recommends a pesticide, in addition to making the application, is exempt from this requirement. *FAC § 11407.5; Information Request 94-006 Sale of Ag-Use Pesticides to Homeowners*.

The Cooke strychnine product label provides use directions for gopher burrows with no other site restrictions. Consequently, this product has a dual-use label. This product can legally be used on agricultural sites and non-agricultural sites.

Dual-use products can only be sold to end-users in California by a licensed dealer. *ENF 97-065 Dual-Use and Restricted Material Status of Cooke Gopher Mix and Other Strychnine Products.*

Enforcement Letter 90-101(Dealers License Requirement for the Sale of Dual Labeled Pesticides) details enforcement strategies to pursue when nondealers are found selling dual-use or agricultural use pesticides.

Tack and saddle shops and western wear stores carrying small container pesticide products labeled for use on or around horses, are not required to obtain a pesticide dealer's license. *ENF 76-025 Applying the Agricultural Use Definition to Pleasure Horses.*

Livestock Sprays and Spray Devices

If a licensed pest control dealer services spray devices for fly control in commercial stables, that dealer is performing pest control for hire. The process of mixing and diluting the pesticide concentrate and cleaning, calibrating or otherwise servicing the automatic spray device is considered to be providing a service and requires such persons to be licensed as Agricultural Pest Control Businesses (PCB). If the sales of pesticides and pest control devices are always in connection with providing such a service, then the PCB license supersedes the need to have a Pesticide Dealers License. However, if they also sell such products without providing the service, a Pesticide Dealers License is still required.

ENF 78-049 Licensing Requirements for Sales of Livestock Pest Sprays and Spray Devices.

Pesticide Sales Without a Recommendation

3CCR § 6564(a) requires that a dealer ensure that the pesticide delivered corresponds to any recommendation which has been provided. When the person making a sale of an agricultural use pesticide is not a licensed agricultural pest control adviser, he/she may not give any instruction or advice on its use. When a pesticide is sold but no recommendation is made or provided, the invoice or delivery slip must state "No recommendation has been made by, or provided to, the seller concerning the use of the material covered by this invoice" or similar notice. *ENF 81-023 Product Sales Differing from Adviser Recommendations.*

This notice must be delivered to the customer no later than the time the pesticide is delivered. *ENF 85-072 Written Recommendations.*

It is a violation of *FAC § 12121(d)* for any person subject to dealer licensing requirements to make false or fraudulent statements. It is a violation to state on an invoice delivery slip that no recommendation was made when, in fact, one was made by an adviser employed by the pesticide dealer. Disciplinary action may be taken. It is the pesticide dealer's responsibility to know if the employees have made a recommendation.

Predators, Parasites, or Disease-Producing Organism Dealers

Businesses that sell predators (lacewings, ladybird beetles, etc.), parasites, or disease-producing organisms for agricultural use are required to be licensed as pesticide dealers. *ENF 89-117 Licensing Requirements for Persons that Sell, Recommend or Apply Biological Control Agents.*

Veterinarians Selling Pesticides

Veterinarians selling restricted materials must be licensed pesticide dealers even though they may be writing prescriptions for the use of these chemicals.

Veterinarians selling nonrestricted pesticides do not need a dealer license provided they are writing prescriptions for any "agricultural use" pesticide sold. Normally, livestock supply stores selling "over-the-counter" to the general public must be licensed even if owned and run by a veterinarian. *FAC § 11408(d).*

Chapter 4

AGRICULTURAL PEST CONTROL BUSINESS

FAC §§ 11701 - 11711

Pest Control Business License (Agricultural)

Who needs it?

Any person who advertises, solicits, or operates as a pest control business. This includes the following *FAC §§ 11403, 11701*:

- Ⓒ Ground and aerial pest control operations.
- Ⓒ Farm management companies when their services include pest control.
- Ⓒ Packing houses, shippers, storage facilities, and other processors who treat agricultural commodities owned by another person or firm (excludes cooperatives).

Exemptions:

Structural pest control *FAC § 11531*:

- Ⓒ Preservation treatment of fabrics or structural materials *FAC § 11531*; and
- Ⓒ Tree surgery involving the removal of diseased or infested tissues or applying disinfectants to wound cavities incidental to tree surgery. *FAC § 11710*.
- Ⓒ Household or industrial sanitation services.
- Ⓒ Seed treatment incidental to regular business.
- Ⓒ Live capture or removal of certain vertebrate pests, bees, or wasps without the use of pesticides. *FAC § 11531*.

What's required?

- Ⓒ A pest control business must have at least one person in a supervisory position who holds a qualified applicators license at each principal and branch location. *FAC § 11701.5*.
- Ⓒ Fulfill financial responsibility requirement *FAC § 11701(c)(2) and 3CCR § 6524*.

- C Fictitious Business Name Statement from the County Clerk's Office. *FAC § 11701(a).*
- C Certificate of Good Standing for companies that are corporations which may be obtained for a fee of \$6.00 from the Secretary of State. *FAC § 11702(a).*
- C License fee of \$100.00 per year for the principal location and \$50.00 per year for each branch location. *FAC § 11703.*

Additional Requirements

Each pest control business must:

- C Register with the county agricultural commissioner in each county where business is conducted. *FAC § 11732.*
- C Retain pest control application completion notice records for two years. *3CCR § 6619.*
- C Retain records of pesticide use for two years. *3CCR § 6624.*
- C Submit pesticide use report records to the county agricultural commissioner. *3CCR §§ 6624 and 6627.*
- C Have valid permits for restricted materials used. *3CCR § 6632.*
- C Retain written recommendations for one year. *FAC § 12004.*
- C Businesses that perform pest control using an aircraft must have a person who holds a valid Journeyman Pest Control Aircraft Certificate. *FAC § 11901.*
- C Federal Aviation Administration Operating Certificate required to operate as a commercial aircraft operator.

An Agricultural Pest Control Business License is required of any person who engages for hire in the business of pest control. The licensed agricultural pest control business must have at least one qualified applicator licensee, with the appropriate pest control category, who is responsible for the pest control operations of that location. Licensed maintenance gardeners may designate a qualified applicator certificate holder as the responsible person. This qualified applicator must be actively responsible for the legal and safe operation of pest control activities conducted by the business location; and the supervision of pest control operations performed by employees attached to the business location.

In certain instances, the qualified applicator licensee may act as the qualified person for more than one location as long as the above requirements are met.

Agricultural Pest Control Business Licensing Procedure

Examination and licensing of agricultural pest control businesses is performed by DPR. It is the responsibility of the commissioner to identify those businesses that must be licensed as an agricultural pest control business. The need for a license is based upon a business advertising, soliciting, or operating as a pest control business, regardless of whether or not the work is performed in an agricultural setting. For example, a licensed agricultural pest control business may perform industrial or institutional pest control for hire. An applicant must submit an *Agricultural Pest Control Business License Application Form (PR-ENF-042)*, and mail it with a fee to DPR. A *Maintenance Gardener Pest Control Business License Application Form (PR-ENF-004)* would be submitted by landscape maintenance gardeners. After the commissioner has informed those persons of the licensing requirement, and provided them with license application forms, refer the matter to the appropriate DPR Senior Pesticide Use Specialist for follow up as necessary. *FAC §§ 11701 through 11708*.

NOTE: Each business license holder must maintain, at each main and branch location, a qualified person with appropriate pest control categories to actively supervise all applications. The qualified person for a licensed agricultural pest control business must be a qualified applicator licensee. The qualified person for a licensed agricultural pest control business in the maintenance gardener category could be either a Qualified Applicator License or a Qualified Applicator Certificate holder with the landscape maintenance pest control category. It is recommended that the business license application not be submitted until the individual has qualified. The business must also demonstrate to DPR financial responsibility for chemical bodily injury and property damage.

County Registration of Agricultural Pest Control Businesses

Each location of an agricultural pest control business or maintenance gardener business must be registered with the commissioner in each county where business is performed before advertising, soliciting, or operating in that county. Complete a separate registration form for each county.

Home County Registration (Business license address)

The registration of a licensed agricultural pest control business in its home county should be done in person. Only the qualified applicators responsible for the pest control activities of that business should be registered. Be sure the business license is valid for the year of intended operation. If not, refuse registration. The year is shown on the paper license for that location.

NOTE: The business license and the qualified applicator license or certificate valid date may differ. Be sure to check that both dates are valid before registration.

Have applicant complete the required registration forms *Pest Control Business County Registration Form (PR-ENF-059)*. Check for completeness of registration forms. Be sure the pest control equipment is individually listed and identified on the *Pest Control Equipment Registration Form (PR-ENF-058)*.

Agricultural pest control operator businesses based within the county and registering for the first time should be required to have all equipment inspected before registration of the business is complete. This does not preclude the need to inspect equipment while in use in the field. Be sure the equipment is individually listed and identified on the *Pest Control Equipment Registration Form PR-ENF- 058*.

Emphasize the following topics when you review pest control and pesticide regulations with the licensee:

- New regulations or laws;
- Pesticide worker safety requirements;
- Restricted Material Permit conditions;
- Storage, rinsing, and disposal of pesticides and emptied containers;
- Required records and reports;
- County policies, requirements and regulations; and
- Prior noncompliance documented by inspections.

Collect registration fee if required by the county. The fee applies to the registration of the main business location and each additional branch, not to the qualified applicator licensee responsible for pest control operations conducted by the business location.

If an applicant plans to register in additional counties, check the latest *"Summary of Registration Fees Charged by Counties"* to determine which additional counties, if any, will accept a mail-in registration. Imprint and process, but do not sign additional cards for mailing to counties which accept mail-in registrations. Be sure your county name is on the hard registration card copy as the imprinting county.

Registration may be amended later at no charge to add agents (Qualified Applicator Licensees or Certificate Holders) or additional categories obtained by the qualified applicator.

County should keep a copy of the Agricultural Pest Control Business License or Maintenance Gardener Pest Control Business License for the file.

Out-of-County Locations Registration -- Processing Mailed-In Applications

Agricultural pest control business locations outside your county may register by mail if county policy permits. A fee may be charged for registering by mail.

When processing a mail-in registration, be sure all application forms submitted by the applicant are properly imprinted and completed. Also make sure the imprinted form applies to the location from which the operation will be conducted in your county.

When the application forms are found to be in order, sign, date, and return a copy of the application to the applicant.

Registrations may be amended later to add agents (Qualified Applicator Licensees or Qualified Applicator Certificate Holders) or additional categories obtained by the qualified applicator with no additional charge.

Agricultural Pest Control Business Policies

Aquatic Pest Control

Persons who apply pesticides to aquatic sites (e.g., lakes, ponds, canals) for hire must be licensed as agricultural pest control businesses.

Biological Control Agents

Persons who release biological control agents, such as predators, parasites, and disease-producing organisms, for hire to control an agricultural pest must have an agricultural pest control business license. Persons who engage strictly in cultural practices for hire to control a pest, (e.g., cultivating, discing, hoeing fields for weed control) do not require an agricultural pest control business license.

ENF 89-117 Licensing Requirements for Persons that Sell, Recommend or Apply Biological Control Agents.

Biological Control Use

An Agricultural Pest Control Business License is required for individuals who engage in the business of using predators, parasites, or disease-producing organisms to control pests for hire. *ENF 81-091 Predator Control Plans.*

Chemical Liability

“Chemical liability” means liability for personal injury and property damage resulting from the use of pesticides which typically are discovered immediately or within a few days or few months following the pest control work.

ENF 88-085 Financial Responsibility Requirements of Agricultural Pest Control and Maintenance Gardener Pest Control Business Licensees.

ENF 88-106 Financial Responsibility of Applicants for an Agricultural Pest Control Business License.

Farm Management Firms

Firms engaged in management of properties are required to hold an Agricultural Pest Control Business License when the management firm contracts with the owner

or lessee of the property and performs services which include pest control operations. The license would still be required even though the management firm may not advertise or represent itself as doing pest control. A separate charge for agricultural pest control would not have to be made for the use to be considered advertising, soliciting, or operating as a pest control business. When the management firm subcontracts with a licensed operator to perform the pest control, the management firm's records should identify the operator who did the work. *ENF 81-024 Agricultural Pest Control Operator License Information Sheet; ENF 81-043 Farm Management Firms; ENF 82-041 Farm Management Firms (Amends ENF 81-043).*

Fee-Exempt Neighborhood Operator FAC § 11709

The purpose of the Fee-Exempt Neighborhood Operator Agricultural Pest Control Business License is to allow equipment sharing and cooperation between neighboring growers and to provide for pest control on small acreage and in areas where it is economically unfeasible to hire a licensed agricultural pest control business. It is not designed to allow a grower to operate as a pest control business in competition with licensed agricultural pest control businesses. The relationship of the acreage and number of the neighboring parcels and the intent must be considered in relation to the requestor's own farming operation in order to determine whether the applicant qualifies for a Fee-Exempt Agricultural Pest Control Business License. The fee-exempt operator is required to maintain records, register with the commissioner, and comply with all other laws and regulations that pertain to licensed agricultural pest control businesses.

Applicants must complete an application for an *Agricultural Pest Control Business License Fee-Exempt Form PR-ENF-042* and check the appropriate box to request fee-exempt status. They will be required to submit supplemental information about their operations and the location of their neighbor's property on *Fee Exempt form PR-ENF-006* along with the application. The business license will indicate "fee exempt" to avoid confusion. All other aspects of the Fee-Exempt Agricultural Pest Control Business License are similar to the regular pest control licensing procedures including a qualified person to supervise all applications, county registration, and liability insurance requirements. *ENF 83-083 Neighborhood Pest Control Operators; ENF 84-099 Changes in Pest Control Licenses and Certification for 1985.*

Foliar Nutrient Spray Application

Persons or firms who apply foliar nutrient sprays "for hire" are not required to have an Agricultural Pest Control Business License as these products are not pesticides (*FAC § 12756*). However, if a foliar nutrient spray product is intended for use as a pesticide, registered as a pesticide, contains a pesticide, or is mixed with a pesticide, then an Agricultural Pest Control Business License is required.

Landscaping or New Construction with Incidental Pest Control

Pest control is sometimes done in conjunction with construction work such as paving parking lots or driveways, establishing new landscape, or building homes or other structures. If this is done by the contractor incidental to his construction, a pest control business license would not normally be required. In this situation, the pest control is on property (materials) still considered to be owned by the contractor and is incidental to the construction. If the contract is for more than one year or is renewed for continued maintenance work, a pest control license would be required. Firms regularly doing this kind of pest control as subcontractors to construction or landscaping companies are required to be licensed. *ENF 81-024 Agricultural Pest Control Operator License Information Sheet.*

Livestock Sprays and Spray Device Dealers

A business that services spray devices for fly control in commercial stables, dairy barns, etc., must have an Agricultural Pest Control Business License. Such services include the process of mixing and diluting the pesticide concentrate and cleaning, calibrating or otherwise servicing the automatic spray device.

ENF 78-049 Licensing for Sales of Livestock Sprays and Spray Devices.

ENF 86-045 SPCO Licensing Requirement, Fly Control Devices.

A business that services spray devices in a non-agricultural situation, such as restaurants, offices, etc., requires a Structural Pest Control Operator License (*B&PC § 8552*). It is unlawful for any person to advertise or represent in any manner that any pest control work, in whole or in part, has been done upon any structure, unless the work has been performed by a company registered under this chapter.

If you find a company in violation of this section, refer the information to the Structural Pest Control Board.

Maintenance Gardeners and Landscape Services *FAC § 11704*

Gardeners and landscape maintenance service companies, including indoor plants maintenance companies, must be licensed as maintenance gardener pest control businesses if the pest control work is included as part of the gardening or landscape maintenance service being offered. The Maintenance Gardeners Business License can only be used if the pest control work is incidental to the operator's main gardening or maintenance activities. If gardeners or landscape maintenance service companies are engaged in pest control work separate from the gardening or landscape service being provided, they would have to be licensed as agricultural pest control businesses. Pest control work for hire with a small hand-sprayer or hose-end sprayer requires a license, even if the use is only incidental or occasional. Even the use of snail bait or pesticides provided by a homeowner, if done for hire, requires a license. *ENF 75-031 Gardeners and Landscape Maintenance Services Performing Pest Control Work.*

“Occasional work” means infrequent, nonscheduled, irregular, and unsolicited work performed at the request of the resident who supplies to the gardener the pest control material. Whether or not an itemized charge is made for the pest control work has no bearing on the licensing requirement. A gardener who maintains a supply of material should not be considered as performing occasional work. The use of a small hand-sprayer does not qualify the gardener as an occasional pest control operator. However, truly occasional pest control work should be limited only to the use of a small hand-sprayer or hose-end sprayer. *ENF 78-071 Licensing Gardeners as Agricultural Pest Control Operators.*

Maintenance Gardeners Pest Control Business License Scope

FAC § 11704(b) states: The maintenance gardener category shall be limited to pest control in ornamental and turf plantings indoors, in commercial parks, or surrounding structures.

A “commercial park” is a tract of land where several commercial establishments (e.g., stores, offices, restaurants, warehouses, factories) are located. Business “parks,” industrial “parks,” office “parks,” and shopping centers or malls are commercial parks.

“Surrounding structures” applies to ornamental or turf plantings that are incidental to and placed near or close to structures such as buildings, brick walls, fountains, fences, statues, etc.

Persons who contract to do maintenance gardening, which includes pest control on golf courses, cemeteries, and parks, must obtain a Qualified Applicator License with the Landscape Maintenance Pest Control Category and an Agricultural Pest Control Business License. *ENF 91-076 Scope of the Maintenance Gardeners Pest Control Business License.*

Packing Houses and Other Processors

Processors, such as packing houses, hullers, driers, etc., who apply pesticides such as fungicides or fumigants to fruits, nuts, grains, or vegetables must be licensed as agricultural pest control businesses if, at the time of the treatment, the produce is owned by the grower and a direct or indirect charge is made for the service. A cooperative is owned by its members and if it handles only commodities from members, a license would not be required. *ENF 81-024 Agricultural Pest Control Operator License Information Sheet.*

Packing Houses -- Post-Harvest Treatment

A company that rents, leases, or provides equipment and services for applying post-harvest fungicides must be licensed as an agricultural pest control business. Such services include the process of mixing and diluting the pesticide concentrate and the process of cleaning, calibrating or otherwise servicing the equipment. In addition, if at the time of treatment the commodity is owned by the grower and a packing house applies post-harvest fungicides with its own equipment and charges for the services, then the packing house is operating as a pest control business and must be licensed.

ENF 80-040 Licensing Requirements for Post-Harvest Treatment in Packing Houses.

Pest Control Equipment Rental Companies

An Agricultural Pest Control Business License is required of all persons who rent or lease pest control equipment and provide for mixing and diluting the pesticide concentrate, or cleaning or calibrating the equipment on the renter's property. No Agricultural Pest Control Business License is required if the only service provided is repair and initial calibration performed on the property of the person who owns the equipment. However, if the spray equipment is loaned, and the above-described services are provided at no cost, then a Pest Control Business License is not required. Occasionally, an equipment owner will provide an operator along with the equipment. If the equipment owner pays the operator's salary and Workmen's Compensation, the owner would have to be a licensed pest control business, as well as comply with all applicable worker safety regulations. If the applicator's salary and compensation are paid by the renter of the equipment, the renter would be required to comply with all applicable worker safety regulations. *ENF 81-024 Agricultural Pest Control Operator License Information Sheet.*

Pool Service Companies *FAC § 11531(c) (Sanitation).*

Persons engaged in the business of servicing swimming pools with a pesticide are not being required to obtain an Agricultural Pest Control Business License. However, worker safety requirements must be followed and workers should not be allowed to leave pesticides unattended in their truck when servicing pools.

Research and Demonstration

Businesses that conduct pest control while providing research and demonstration services for hire, must be licensed as agricultural pest control businesses.

Vertebrate Pest Control

Trappers who engage in the business of controlling agricultural vertebrate pests for hire must be licensed as agricultural pest control businesses. *Division 6, Pest Control Operations (except Chapter 6 starting with 3CCR § 12001)* does not apply to any person while engaged in live capture and removal or exclusion of vertebrate pests, bees, or wasps, without the use of pesticides. Vertebrate pests include, but are not limited to, bats, raccoons, skunks and squirrels; but do not include mice, rats or pigeons. This section does not exempt a person from the

provisions of *Chapter 1.5 Division 3 of the California Fish and Game Code. FAC § 11531(e) Exemptions to Div 6 (Except Chapter 6) Pest Control Operations.*

Woodcutting: Incidental Pest Control

Pest control is sometimes done in conjunction with woodcutting activities. A woodcutter who harvests a tree and then treats the stump with a growth inhibitor or herbicide soon after to control the resprouting of the stump is exempt from obtaining an Agricultural Pest Control Business License. (This is similar to the intent of exemption provided for those individuals engaged in tree surgery in *FAC § 11710.*) The removal of trees or brush with pesticides primarily to promote timber production is considered to be pest control. Therefore, a person engaged in this type of pest control work for hire is required to have a license. *ENF 84-027 Policy on Pest Control Incidental to Woodcutting.*

Wood, In Ground Pole, or Railroad Tie Treaters for Hire

The treatment of utility poles, fence poles, railroad ties, or wood with pesticides for hire to control or prevent wood destroying pests is considered pest control and requires an Agricultural Pest Control Business License. The pest control category for the Qualified Applicator Licensee is Category C Right-of-Way. *ENF 86-044 License Requirements for In-ground Pole, General Wood or Railroad Tie Treaters for Hire.*

Wood Treatment and Wood Preservative

Householders must become Qualified Applicator Certificate holders to apply restricted use preservatives. Any retail store selling these restricted use products must be licensed as a pesticide dealer in order to sell them to the end-user. A business that applies preservative pesticides to wood for hire in a permanent treatment plant is exempt from the Agricultural Pest Control Business License. Such treatments include the use of pesticides in the maintenance of utility poles, fence posts, stakes, etc. Any treatment to structures is to be considered structural pest control. *ENF 90-067 Licensing Requirements for Permanent Stationary Wood Preservation; ENF 86-106 Wood Preservation Sub-category for Qualified Applicators; ENF 86-118 EPA Restricted Use Wood Preservatives; ENF 87-019 Wood Preservatives Update.*

Chapter 5

QUALIFIED APPLICATOR

FAC §§ 12201 - 12206

QUALIFIED APPLICATOR LICENSE

Who Needs It?

- Ⓒ Any person who supervises the application of either a restricted material or a general use pesticide, made by a licensed Pest Control Business and is responsible for the safe and legal operation of the pest control business;
FAC §§ 11701-11709
- OR,
- Ⓒ Any person who uses or supervises the use of federally restricted use pesticide or state restricted material for any purpose or on any property other than that provided by the definition of “private applicator.”
3CCR § 6000.

What’s Required?

- Ⓒ Submit an application fee of \$40.00. *FAC § 12201.*
- Ⓒ Pass the Laws and Regulations Examination and at least one pest control category examination.

The pest control categories available under this license are as follows
(*FAC § 12203*):

- A. Residential, Industrial, Institutional
- B. Landscape maintenance
- C. Right-of-Way
- D. Plant Agriculture
- E. Forest
- F. Aquatic
- G. Regulatory
- H. Seed Treatment
- I. Animal Agriculture
- J. Demonstration and Research

- K. Health related
- L. Wood Preservative (Subcategories A and/or C)
- M. (No category "M" under the QAL)
- N. Sewer Line Root Control (Subcategory of A)

Additional requirements.

- C Accumulate at least 20 hours of approved continuing education every two years before certificate renewal. Four of the 20 hours must cover the topic of pesticide laws and regulations. *3CCR § 6511*.
- C QAL holders who have only the Landscape Maintenance Pest Control Category (Category B) and who currently possess a valid Maintenance Gardener Pest Control Business License, only need eight hours of approved continuing education. Two of the eight hours must cover the topic of pesticides and pest control laws and regulations. *3CCR § 6511*.

QUALIFIED APPLICATOR CERTIFICATE

Who Needs It?

Any person who uses or supervises the use of federally restricted use pesticides or State restricted materials for any purpose or on any property other than that provided by the definition of "private applicator" (*3CCR § 6000*). This certificate is also required by anyone who is in the business of landscape maintenance and performs pest control that is incidental to such business. In this situation, the Qualified Applicator Certificate (QAC) holder must possess the Landscape Maintenance Pest Control category on their certificate, and obtain a Maintenance Gardener Pest Control Business License.

What's required?

- C Submit an application fee of \$25.00. *FAC § 14152*.
- C Pass the Laws and Regulations Examination and at least one pest control category examination. The pest control categories available under this certificate are as follows:

- A. Residential, Industrial, Institutional
- B. Landscape maintenance
- C. Right-of-Way
- D. Plant Agriculture
- E. Forest
- F. Aquatic
- G. Regulatory
- H. Seed Treatment
- I. Animal Agriculture
- J. Demonstration and Research
- K. Health related
- L. Wood Preservative (Subcategories A and/or C)
- M. Antifouling Tributyltin (Subcategory of A)
- N. Sewer Line Root Control (Subcategory of A)

Additional Requirements.

- C Accumulate at least 20 hours of approved continuing education every two years before certificate renewal. Four of the twenty hours must cover the topic of pesticide laws and regulations. *3CCR § 6511*.
- C QAC holders who have only the Landscape Maintenance Pest Control Category (Category B) and who currently possess a valid Maintenance Gardener Pest Control Business License, only need eight hours of approved continuing education. Two of the eight hours must cover the topic of pesticides and pest control laws and regulations.

The following is intended to provide general information to help pest control applicators identify the most appropriate category for the type of pest control they will be conducting. Questions about other types of pest control should be directed to DPR's Pesticide Enforcement Branch, 830 K Street, Sacramento, California 95814-3510, or by calling (916) 445-4038.

These pest control applicator categories apply to both Qualified Applicator Certificates (formerly Commercial Applicator Certificates) and Qualified Applicator Licenses (formerly pest control operator business authorized agents).

Residential, Industrial, and Institutional (A)

Structural pest control for hire is not allowed within the scope of this category. Structural pest control businesses are licensed by the Department of Consumer Affairs, Structural Pest Control Board.

This category includes the use of pesticides in and around human dwellings, industrial establishments (including packing plants, manufacturing and processing plants, warehouses, grain elevators, and factories), or institutions (including schools, hospitals, and office buildings). Non-landscaped outside areas (such as storage yards or tank farms) directly related to the operation of the building may also be treated under this category. This category does not allow the use of pesticides for landscape maintenance.

This category does not allow treatment to control or prevent insects or fungi from infesting wood. Subcategory L is the proper category for this type of treatment.

Landscape Maintenance (B)

This category includes the use of pesticides to establish or maintain natural or planted ornamental and turf landscape areas and other outside areas around buildings. Typical areas included in this category are residential yards (including home gardens and orchards), recreation areas, school yards, vacant lots, storage yards, cemeteries, green belts, and similar sites. It may also include landscaped street medians and sidewalk areas, and also areas such as walkways and parking lots directly related to landscaped areas. This category also includes the use of pesticides in landscaped areas in enclosed shopping malls, and indoor plants.

Right-of-Way (C)

This category includes the use of pesticides in the maintenance of roads, highways, power lines, phone lines, pipelines, canals, railroads, or other similar areas except for direct application to running or standing water. It may include landscaped right-of-way areas. This category does not allow wood treatment to control termites or fungi-infesting wood. Subcategory L is the proper category for that type of pest control.

Plant Agriculture (D)

This category includes the use of pesticides in the production of food, fiber, or ornamental crops as well as on grasslands and non-crop agricultural areas except when directly applied to running or standing water. It includes applications to rice and similar crops grown in wet or flooded fields.

Forest (E)

This category includes the use of pesticides in forests, forest nurseries, and forest seed-producing areas except for direct application to running or standing water.

Aquatic (F)

This category includes the use of pesticides purposefully applied to standing or running water except for health-related, regulatory, or demonstration and research purposes. It may include treatment to sewer lines or pipelines to control roots invading the lines.

Regulatory (G)

This category includes the use of pesticides in official programs for the control of regulated pests. "Regulated pest" means a specific organism considered by a State or federal agency to be a pest, requiring regulatory restrictions or control procedures in order to protect the host, public, or the environment. This category is not required of contractors who apply pesticides provided that they hold all categories necessary to cover the types of pest control to be done. Additionally, licensing is not required of any individual as long as he/she holds specific categories covering the types of pest control being done even though the pests may coincidentally be regulated pests.

Seed Treatment (H)

This category includes the use of pesticides to protect seed for planting.

Animal Agriculture (I)

Included here is the use of pesticides on animals and to places where animals are confined except when applied directly to running or standing water. Barns, sheds, and corrals can be treated under this category to control animal-infesting pests. However, treatment to control termites or other pests infesting barn or corral wood would be under Subcategory L or a Structural Pest Control License.

Demonstration and Research (J)

This category includes individuals who demonstrate proper techniques of application or conduct field research with pesticides. This category is not required of applicators who demonstrate proper techniques provided they all hold specific categories covering the types of pest control being done. Additionally, licensing is not required of contractors who apply pesticides for research provided that the appropriate specific category is held.

Health Related (K)

This category includes the use of pesticides in official programs for the management and control of pests having medical and public health importance. *ENF 85-012 Revised Scope of Applicator Categories.*

Wood Preservatives (L, Subcategory of A, C and I)

This category includes the use of pesticides to protect wood from wood-damaging pests. This category allows application of wood preservation materials within the scope of Category A (Residential, Industrial, and Institutional); Category C (Right-of-Way); and Category I (Animal). *ENF 90-067 Licensing Requirements for Permanent Stationary Wood Preservation Treatment Plants.*

Antifouling Tributyltin (M, Subcategory of A)

This category allows the use of antifouling paints or coatings containing tributyltin to control the growth of aquatic organisms on the hulls of ships. However, California law only allows the use of this pesticide to aluminum vessel hulls or to commercial or recreational vessel hulls 82 feet or more in length. Although a vessel may be considered a structure, a structural license cannot be used to treat

vessels with tributyltin. The sole licensing authority for this activity lies with DPR, to certify the person who is using or is responsible for the supervision of the use of antifouling tributyltin paint (restricted use pesticide).

ENF 88-009 Tributyltin Training and Examinations.

Golf Course, Cemetery, and Park Superintendents

Persons who use or supervise the use of restricted materials on golf courses, cemeteries, or parks must be certified. Persons performing this work cannot do so under a private applicator certificate. These persons are commercial applicators and must obtain a Qualified Applicator Certificate in the appropriate pest control category prior to performing the work. *ENF 91-055 Licensing Requirements for Persons Using or Supervising the Use of Restricted Materials to Certain Non-Production Agricultural Areas.*

Chapter 6

Private Applicator Certificate

Who Needs It?

- C A person who uses or supervises the use of a restricted-use pesticide for the purpose of producing an agricultural commodity on property owned, leased, or rented by that person or the employer.
- C A householder who uses or supervises the use of a restricted-use pesticide outside the confines of a residential dwelling for the purpose of controlling ornamental, plant or turf pests on residential property owned, leased, or rented by such householder.
- C The private applicator can be the operator of the property or the operator's authorized representative (with written authorization) or an employee of the operator of the property.

What's Required?

- C Each private applicator must take the "*Private Applicator Certificate Examination*" and pass with a score of 70 percent or above.
- C Renewal of the private applicator certificate involves retaking the examination or taking continuing education training.

Pesticides designated by the U.S. Environmental Protection Agency (U.S. EPA) or the State of California for restricted use can be applied only by or under the supervision of a certified applicator. To become a certified applicator, a person must demonstrate competency to handle these hazardous pesticides properly and safely. The mechanism used to determine the knowledge and abilities of persons who intend to handle these pesticides is through the written examination process. These examinations test the applicants to assure that restricted-use pesticides are used properly and safely by persons who understand label restrictions; transportation, storage and disposal requirements; pesticide use report

requirements; environmental protection; and employer's responsibilities concerning field workers and employees who handle pesticides.

Private Applicator Certificate Procedures

Each applicant must complete a *Private Applicator Certification Application Form PR-ENF-045*. The information requested on the form represents the minimum information required under the law to carry out the Private Applicator Certification Program (*ENF 97-062 Private Applicator Certificate Form*). For all applicants, make sure each line of section A on the form is completed fully and accurately. If the applicant is renewing by submitting continuing education hours, section B on the form must also be completed. Check section B of the form for omissions. Have the applicant sign and date the application form.

If private applicator certification is denied, fill in the reason for the denial and sign the application form. If the applicant qualifies for certification, assign a private applicator certificate number (PA-County Code-five digit Number).

ENF 97-078 Private Applicator Certification Examination and Renewal Requirements; ENF 97-062 Private Applicator Certificate Form.

First-time Certification or Renewal by Examination Procedures

C Each private applicator must take the "*Private Applicator Certificate Examination*" with a score of 70 percent or above to pass. This is not a take home examination. The examination must be supervised and administered by authorized staff. The examination consists of two parts. The first part of the examination (Questions 1-55) is taken by private applicators who do not have employees. The second part of the examination (Questions 56-61) consists of additional questions for private applicators who have employees. An oral examination may be administered in those situations where, in the opinion of the commissioner, a written examination would not accurately measure the understanding of the applicant. *FAC §14092(b)*.

C The reference material for the private applicator certificate examination is the publication, *Pesticide Safety—A Reference Manual for Private Applicators*. This sales publication #3383 is available from the Division of Agriculture and Natural Resources, University of California, 6701 San Pablo Avenue,

Oakland, California, 94608, or your local Cooperative Extension Office.

- C Responses to the examination questions will be recorded by the applicant on a separate answer sheet (Scantron Form) that has been provided by DPR. Applicants must not write or mark in the examination booklet.
- C Upon completion of the examination by an applicant, the answer sheet and testing materials will be collected by commissioner staff. The examination will be corrected and results will be given to the applicant. If a passing score of 70 percent is not achieved on the examination, the applicant may not re-take the examination for seven calendar days. Commissioner's staff may only give general advice to the applicant in the areas(s) which are giving difficulty. The examination is confidential. Therefore, it must be kept under lock and key, accounted for, and accessed only by authorized staff.
- C If the applicant passes the examination, the commissioner will issue a DPR private applicator certificate card for the period specified by their three-year renewal cycle. *FAC § 14092; ENF Letter 96-054 1997 Private Applicator Certification Program Implementation and Senate Bill 800.*
When issuing certificates, commissioner staff should make a copy of the completed certificate's front and back for record-keeping purposes. The examination answer sheet (Scantron Form) with the applicant's score should also be kept for record-keeping purposes.

Renewal by Continuing Education Procedures

- C The private applicator certificate holder may choose to renew the certificate by attending continuing education classes. Alternatively, they may choose to renew the certificate by passing the private applicator certificate examination.
- C If the applicant is renewing by the continuing education option, commissioner staff must evaluate section B of the private applicator certification application form for the following:
- C The required number of hours of continuing education to renew the certificate. Each applicant shall complete within the three-year certification period, a minimum of six hours of approved continuing education relating to pest management and pesticides, including not less than two hours pertaining

to pesticide laws and regulations. *FAC § 14099.*

- C Documents(s) verifying attendance at the continuing education course(s).
- C If all the requirements are met for renewal, the DPR Private Applicator Certificate will be issued by licensed staff for the applicant's specified renewal cycle. *ENF Letter 96-054 1997 Private applicator Certification Program Implementation and Senate Bill 800.*

Private Applicator Certificate Card

Issue a Private Applicator Certification Card to each qualifying person. Fill out the required information to complete the card. The signatures of both the Private Applicator and the issuing licensing county representative must be on the card. *FAC § 14095.*

The private applicator certificate number issued on the card should be in the following format: PA-county code number-sequential 5 digit numbering system (PA-00-00000). *ENF 96-060 New Department of Pesticide Regulation Private Applicator Certificate Card.*

Prior to issuance of a restricted material use permit, each private applicator must be certified. Certification is obtained by renewal with Continuing Education or by examination using the *Private Applicator Certification Examination Form PR-ENF-171 A/B.*

Chapter 7

PILOT

FAC §§ 11901 - 11911

Aircraft Pilot Pest Control Certificate

Who Needs It?

Any person who operates any aircraft for the purpose of pest control. This includes the following (*FAC § 11901*):

- C Pilots employed by a licensed Pest Control Business.
- C Pilots employed by vector control agencies or regions.
- C Pilots who do pest control on their own property (private applicators).

What's Required?

Apprentice Pest Control Aircraft Pilot Certificate (AP):

- C Valid Federal Aviation Authority Administration (FAA) Commercial Pilot Certificate, or if spraying your own property, a valid FAA Private Pilot Certificate. *FAC § 11901*.
- C Valid FAA Medical Certificate. *FAC § 11901*.
- C Submit an initial application fee of \$30.00. *FAC § 11903*.
- C Pass the Laws and Regulations and Apprentice Pilot Examinations. *FAC § 11905*.

Journeyman Pest Control Aircraft Pilot Certificate (JP):

- C Valid FAA Commercial Pilot Certificate, or if spraying your own property, a valid FAA Private Pilot Certificate. *FAC § 11901*.
- C Valid FAA Medical Certificate. *FAC § 11901*.
- C Within the last two years, served as a California JP (*FAC § 11906*); or AP for one year, and have at least 150 hours in a fixed wing aircraft or at least 50 hours in a helicopter (*FAC § 11907*).
- C Submit an initial application fee of \$30.00. *FAC § 11903*.
- C Pass the Journeyman Pilot Examination. *FAC § 11905*.

Additional Requirements.

- C Accumulate at least 20 hours of approved continuing education every two years before certificate renewal. Included in the twenty hours of continuing education are at least four hours pertaining to laws and regulations and at least four hours pertaining to aerial pest control equipment and application techniques. *3CCR § 6511*.
- C Register with the county agricultural commissioner in each county where aerial pest control is performed. *FAC § 11921*.

A California Pest Control Aircraft Pilots Certificate is needed to operate an aircraft if performing pest control in California. A pilot must first serve as an apprentice in California and meet the other requirements of *FAC §§ 11905 and 11907* before becoming a journeyman. This applies even though the pilot may have considerable aerial pest control experience in other states.

Pest Control Aircraft Pilot Certification Procedure

Although the examination and certification of pest control pilots are performed by DPR, it is the commissioner's responsibility to detect and contact those persons who should be certified. The need for a certificate is based upon operating an aircraft in pest control and is not related to the agricultural use definition. The applicant must complete an *Application for Aircraft Pilot Pest Control Certificate Form PR-ENF-005* and mail it with a fee to DPR. Apprentice pilots will be required to submit more detailed information about their experience and training during the apprenticeship period by submitting a *Pest Control Aircraft Pilot Statement of Supervision of Apprentice by Journeyman Form PR-ENF-010*. An apprentice pilot may submit more than one experience and training form to meet the requirements for the Journeyman Pilot Examination. This information must be documented by the signature of the journeyman pilot(s) responsible for supervision of the apprentice pilot's flying time in pest control activities. After you inform those persons of the certification requirement, and provide them with certificate application forms, refer the matter to the appropriate DPR Senior Pesticide Use Specialist for follow up as necessary.

Supervision of Apprentice Pilots *FAC § 11909*

3CCR § 11909 prohibits an apprentice from operating pest control aircraft without the direct and personal supervision of a journeyman pilot. In order to promote uniformity among the various situations where supervision is required, DPR policy on apprentice supervision is that the standards for supervision of noncertified applicators should apply. *3CCR § 6406*.

The journeyman must be aware of conditions at the application site and be available to direct and control the application. The actual or potential hazards or sensitivity of the application must be considered in determining how close or available the journeyman must be.

In some cases, it may be necessary to require the supervising journeyman be “on site” while the application is taking place. In all cases, it should be possible for the apprentice to contact the supervising journeyman quickly, if necessary.

County Registration of Pilots

Prior to conducting pest control operations in any county, all pilots must register with the commissioner. Registration is not required if the pilot is only involved in agricultural operations such as seeding or fertilizing.

Procedures for Handling Registration in Person:

- C Be sure the Pest Control Aircraft Pilot Certificate issued by DPR is valid for the year the applicant is registering. The year is embossed on the plastic card.
- C Be sure the pest control aircraft pilot has an appropriate and valid Commercial Pilots Certificate and a current appropriate Medical Certificate issued by the Federal Aviation Administration (FAA). The Medical Certificate is valid for only one year after issuance. Make a copy and attach it to your copy of the pilot's completed County Registration Form.
- C Have applicant fill out the appropriate registration form *PR-ENF-009*. Check the registration form for completeness.
- C Check for completeness of the county registration form.
- C Check for valid FAA Commercial Pilots Certification and Medical

Certification.

- C Collect registration fee if charged by your county.
- C Imprint the registration card with the applicant's plastic card.
- C Process additional forms for mailing to other counties as requested by the applicant. Stamp as the imprinting county, but do not sign these additional forms.

Procedure for Registration Forms Received by Mail

Be sure the imprinted form shows that the Pest Control Aircraft Pilots certificate is valid for the year in which the pilot intends to register. Charges may be made for registering a pest control pilot from another county by mail. Sign form and return one copy to applicant.

Registering the Pilot

Review the pilot's pest control performance record for the past year. Discuss any problems with the pilot if registering in person. Ask the pilot what mitigating measures will be taken to avoid repeat problems. A letter may be used when registering by mail or the commissioner may require the pilot to register in person so that a discussion may take place.

Review county policies and regulations with the pilot (or mail the information). Apprentice pilots must list the names of journeymen pilots who will supervise them. The journeyman named on the form must be currently registered in that county. *FAC § 11909.*

Private Pilots

Pilots who may want to do pest control on their own property are required to be certified as pest control aircraft pilots. If beginning as an apprentice, they must have a certified journeyman pilot provide the required supervision. *FAC § 11901.*

Vector Control District Pilots

Pilots who are employed by public agencies, such as vector control districts, must be certified and meet the same supervision requirements as the private pilots above.

Chapter 8

ADVISER

FAC §§ 12001 - 12054

Agricultural Pest Control Adviser License

Who Needs It?

- C Any person who offers a recommendation on any agricultural use, who holds forth as an authority on any agricultural use, or who solicits services or sales for any agricultural use. *FAC §§ 11401, 11411*

Exemptions.

- C Officials of federal, State, and county departments of agriculture and, University of California personnel engaged in duties related to agricultural use, are exempt from this licensing requirement if the recommendation is put in writing. *FAC § 12001.*
- C Owners of private firms (i.e., growers, golf courses) making recommendations for pesticide use on their own property are not required to be licensed as Agricultural Pest Control Advisers. Recommendations must be put in writing and comply with all recommendation requirements. *ENF 89-119 SB2126 - Agricultural Pest Control Advisers Letter Number 4.*
- C A veterinarian writing a prescription for use to control an animal pest does not have to be licensed as an agricultural pest control adviser. *FAC § 11408.*
- C The adviser licensing requirements of *FAC 11410* do not apply to persons within an established place of business who merely write sales invoices or receipts or otherwise handle over the counter sales transactions where no recommendations are made or inferred.

What's Required?

An Agricultural Pest Control Advisers (APCA) license is obtained by passing the Laws and Regulations examination and at least one category examination. In order to qualify for this examination, the applicant must meet the following requirements:

- C Bachelors degree in agricultural sciences, biological science or pest management; or 60 semester units (90 quarter units) of college level curriculum in agricultural sciences, biological sciences or pest management, plus 24 months of technical experience as an assistant to an APCA or the equivalent experience. Both options include core course requirements of 39 semester units (58.5 quarter units). *3CCR § 6550.*
- C Submit a copy of college transcripts with APCA application. *3CCR § 6550.*
- C Submit an initial application fee of \$50.00. *FAC § 12021.*

Categories.

- A. Control of insects, mites, and other invertebrates.
- B. Control of plant pathogens.
- C. Control of nematodes.
- D. Control of vertebrate pests.
- E. Control of weeds.
- F. Defoliation.
- G. Plant growth regulation.

Additional Requirements.

- C Accumulate at least 40 hours of approved continuing education every two years before license renewal. Four of the forty hours must cover the topic of pesticides and pest control laws and regulations and four of the forty hours must cover Integrated Pest Management practices. *3CCR § 6511.*
- C Register with the county agricultural commissioner in “home” county (address on license) and in each county where recommendations are made. *FAC § 12031.*
- C Retain one copy of each written recommendation for one year following the date of the recommendation. *FAC § 12004.*
- C Provide the operator of the property with a copy of the written recommendation prior to the application. *FAC § 12003.*

- C Where a pesticide use is recommended, a copy of the written recommendation must be provided to the pesticide dealer and the applicator prior to application. *FAC § 12003*.

Agricultural Pest Control Adviser Licensing Procedure

Examination and licensing of agricultural pest control advisers is performed by DPR. However, DPR depends on the commissioner for detection of those persons who represent themselves as pest control authorities on agricultural use or who make agricultural use recommendations. The applicant should complete an application for *Agricultural Pest Control Adviser Form PR-ENF-084* and mail it, as instructed on the form, with the fee to Cashier, DPR. While explaining the requirements for filling out the form, direct the attention of the applicant to the minimum education qualifications required before applying for a license.

Procedure for Registering the Adviser

An adviser shall not make, or offer to make, an agricultural use recommendation in any county without first registering with the appropriate commissioner. The adviser must first register in the county where the address on the Agricultural Pest Control Adviser License is located (home county). If the address is not within California, then the registration would be in the county of occupational choice.

If previously registered, check record inspections (written recommendation audits) made the previous year.

Note any noncompliance entries on prior inspection records and the explanations. Bring these to the attention of the applicant.

Home County Registration -- In Person

Check the license card to make sure it is valid for the year the applicant is registering and check the applicant's signature on the back of the card.

Have the applicant complete an *Agricultural Pest Control Adviser Registration Application Form PR-ENF-091*.

Make sure the application is complete. Collect the registration fee, if one is required. Imprint the registration application with the applicant's plastic license card. Have the commissioner or an authorized person sign and date the imprinted form. Keep the hard copy for county records, and give the applicant the tissue copy.

If necessary, process the registration forms the applicant needs to register in additional counties. Stamp all hard copies as the imprinting county, but do not sign them. Give the forms to the applicant to send, with a reminder that other counties may require fees for registration.

Review pertinent county policies and regulations with the applicant, especially any new ones.

Determine where the adviser's records are kept for audit purposes.

Out-of-County Registration -- Mail

Check the *Agricultural Pest Control Adviser County Registration form PR-ENF-091* for imprinting county name. Check the imprinted form to make sure the license is valid for the year the applicant is registering. Make sure the appropriate fee (if one is required) accompanies the imprinted form. Check the records to see if the applicant has been registered in the county previously, and if there were any problems. Sign the form and return the tissue copy to the applicant along with a list of pertinent county policies and regulations and indicate whether your office will require copies of their recommendations.

Authorized Representatives

See next page.

Properly Certifying Pest Control Applicators (PCAs) Acting as Authorized Representatives (AR) for Purposes of Issuing Restricted Material Permits

Type of Certification	Employment Status	PCA's Roles		Certification Conducted By
		Permit Process AR requirement	Certification Process	
Private	PCA employed by owner or renter of property	Permittee's AR (Employee status) No letter required	Private applicator (Employee status)	County Ag. Comm.
Commercial	PCA - Dealer Employed Independent PCA	Permittee's AR (Regulation allows) Letter required	Certified Commercial Applicator not Private Applicator (Due to definition)	DPR
Commercial	Employee of Farm Management Firm	Permittee's AR (Employee status) No letter required	Certified Commercial Applicator not Private Applicator	DPR
None	Various	No possession or use. Owns or controls property or AR. Regulation allows	Licensed PCB as Certified Commercial Applicator	None

ENF 81-030 Properly Certifying PCA's Acting as Authorized Representatives for Purposes of Issuing Restricted Material Permits.

Agricultural Use Definition

An understanding of the definition of "agricultural use" is necessary to understand the definition of Agricultural Pest Control Adviser. *FAC § 11408* defines "agricultural use" as the use of any pesticide or method or device for the control of plant or animal pests, or any other pests, or the use of any pesticide for the regulation of plant growth or defoliation of plants. The definition excludes the sale or use of pesticides in properly labeled packages or containers which are intended for home use, institutional use, and industrial use. "Agricultural use" includes, but is not limited to, commercial production of animals or plants (including forests),

parks, golf courses, cemeteries, roadside, power line rights-of-way, and nurseries.

Home Use Definition

“Home use” is defined in *3CCR § 6000* as use in households and their immediate environment. This definition includes household, home, garden, and residential situations. Commercially raised livestock is not included within the definition of home use regardless of number. Pleasure horses kept for personal use, however, would be considered home use as would livestock or poultry raised for personal use or consumption. *ENF 76-025 Applying the Agricultural Use Definition to Pleasure Horses.*

Institutional Use Definition

Institutional use is defined in *3CCR § 6000* as use within the confines of, or on property necessary for the operation of buildings, such as hospitals, schools, libraries, auditoriums, and office complexes. Pesticide use for maintenance of turf or landscaped areas adjacent to buildings would be included in this category.

Industrial Use Definition

Industrial use is defined in *3CCR § 6000* as use for, or in, a manufacturing, mining, or chemical process or use in the operation of factories, processing plants, and similar sites. Commodity treatment in a packing house is also considered an industrial use.

The control of an animal pest under a written prescription of a veterinarian does not require a PCA license.

A veterinarian writing a prescription for use to control an animal pest does not have to be licensed as an Agricultural Pest Control Adviser and does not require a PCA license. However, there may be permit and dealer licensing requirements.

Vector control districts or other public agencies which have entered into, and operate under, a cooperative agreement with the California Department of Health Services and pest control businesses under contract to a vector control district operating as pest control businesses must be licensed.

All uses, except those specifically excluded above, are agricultural uses and require that persons representing themselves as authorities, or making a recommendation, or soliciting services or sales in these areas must be licensed as agricultural pest control advisers.

Biological Control Agents

Persons who recommend the use of biological control agents are required to have a PCA license. *ENF 89-117 Licensing Requirements for Persons that Sell, Recommend, or Apply Biological Control Agents.*

Farm Management Firms

If a farm management firm makes recommendations, the person making those recommendations must be licensed as a PCA. *Information Request 91-08 Farm Management Firms*

Golf Course Superintendents

All golf course superintendents are required to be licensed as agricultural pest control advisers if they make recommendations for pest control on the golf course where they are employed. *ENF 75-053 Golf Course Superintendents. ENF 89-047 SB 2126 Agricultural Pest Control Advisers Letter Number 2.*

Landscape Architects

Any landscape architect who includes pesticide use specifications in landscape architectural plans, except plans concerning the immediate landscaping environment

of a residential dwelling or commercial business office, shopping centers, and other similar institutional settings, must be licensed as an agricultural pest control adviser. Included within the scope of the adviser licensing requirement are those recommendations (specifications) concerning landscaping of parks and recreation areas, golf courses, cemeteries, parkways, highways, and other similar settings.

Property Operators and Their Employees

A recommendation can be written by the owner, renter, or lessee of the property without an Agricultural Pest Control Adviser License. However, employees working for a private firm (grower, golf course, etc.) or public agency and making recommendations must be licensed pest control advisers in the appropriate categories unless exempted under *FAC § 12001. ENF 89-119 SB 2126 - Agricultural Pest Control Advisers (PCAs) Letter No. 4.*

Public Employees

The personnel of federal, State, and county departments of agriculture are exempt from the agricultural pest control adviser licensing requirement when making recommendations in connection with their official duties, but are required to make all agricultural use recommendations in writing. University of California personnel and officials of districts formed pursuant to *Chapter 4 (commencing with § 5780) of Division 5 of the Public Resources Code* are also exempt from the Pest Control Adviser License, but are required to make all agricultural use recommendations in writing *FAC § 12001. ENF 89-047 SB 2126 Agricultural Pest Control Adviser Letter No. 2.*

3CCR § 6632 requires that:

Each person engaged for hire in the business of pest control shall have available a copy of both the written recommendation and the use permit covering each agricultural use application of a pesticide that requires a permit.

This requirement does not affect who must be licensed as a pest control adviser. If an adviser made a recommendation for the use, a copy of this written recommendation must go to the agricultural pest control business (PCB). If the grower ordered the use, it is the grower's responsibility to provide the PCB with a "written recommendation."

Recommendations

- C Written recommendations must include worker reentry intervals required by regulation or labeling.
- C Written recommendations must include any preharvest intervals and crop rotation or disposition requirements listed on the label.
- C It is the responsibility of the pest control adviser to assure that each recommendation clearly includes any crop disposition or plant back restrictions incurred by use of that pesticide. As with known hazards, the adviser may want to revise his recommendation form to include crop rotation and disposition requirements. *ENF 86-023 Label Restrictions on Written Recommendations.*
- C The recommendation must state how the adviser came to the decision that treatment was necessary. Pest count, history of infection in the area, preventative measures, etc., are some of the criteria that may indicate the need to treat. The recommendation must also have a certification that alternatives were considered and that mitigation measures have been considered and those that were found feasible have been adopted.
- C The adviser's address could be the one designated on the license or his employer's address. When the employer has several branch locations printed on the written recommendation form, the address at which the adviser may be contacted must be indicated.
- C The adviser can do this by circling, checking, or marking the appropriate location from which he/she works. In addition, the signature or mark of the person making the recommendation must also be included. *ENF 76-048 Name and Address of Adviser on Written Recommendations; ENF 95-034 Policy Concerning Alternative Means of Signing Pest Control Recommendations.*

3CCR § 6426(b) requires that a PCB have available a written recommendation covering each agricultural use of a restricted material. It is the responsibility of the adviser or grower, depending upon who made the recommendation, to supply the PCB with the written recommendation. All copies of the recommendation must be in the hands of the grower and PCB before application of the pesticide.

Recommendations -- Agricultural Pest Control

Agricultural pest control recommendations must be in writing, including those made by persons exempt from licensing. *FAC § 12003*

Recommendations -- Distribution of Copies

The grower has the final decision of whether or not to implement a pesticide application resulting from a written recommendation. Therefore, a signed and dated copy of each agricultural use recommendation must be furnished to the grower prior to the application (soon enough to use the recommendation to make treatment decisions). A copy of each recommendation, including the use of a pesticide, must also be furnished to the dealer and the applicator in sufficient time to allow compliance with *3CCR § 6566*, but at no time later than the time of the delivery of the pesticide. Copies for the dealer and applicator, if they are unknown, shall be delivered to the grower with his copy. *ENF 81-089 Written Recommendations.*

Recommendations -- Hazards Known to Exist

Each pest control recommendation must include, when applicable, a warning of the possibility of damages by the pesticide application that should have reasonably been known to exist at the time the recommendation was made. This requirement is designed to ensure that applications are made only under suitable conditions by alerting the applicator to hazards so that precautions may be taken to eliminate or minimize the hazards. Also, it serves to remind the adviser of this important consideration that should influence pest management decisions. Advisers are responsible for familiarizing themselves with the area surrounding the intended application site. When a condition is known to exist that could result in damage, advisers must include it in their written recommendations.

Examples of situations that could result in damage from pesticide applications are apiaries located within or adjacent to an intended treatment area; bodies of water (including water return systems); buildings (including residences); businesses, schools, etc.; domestic animals or livestock; wildlife nesting and grazing areas; and livestock feeds including silage or baled or cubed forages. *ENF 78-047 Written Recommendations - Warning Statements of Hazards Known to Exist.*

Recommendations -- Label Restrictions

Written recommendations must include any preharvest intervals and crop rotation, or disposition requirements listed on the label. This may be accomplished in several ways:

- C Transcribing these requirements directly onto the written recommendation.
- C Referencing the pesticide label and attaching a copy of the label with the appropriate statement highlighted.
- C Attaching a supplementary sheet listing the appropriate restrictions.
- C Deliver to both the grower and the PCB at the beginning of the season, a listing of each pesticide to be recommended together with the appropriate crop disposition and plant back restrictions. Each written recommendation for these materials must reference the listing for that pesticide.
- C It is the PCA's responsibility to assure that each recommendation clearly includes any crop disposition or plant back restrictions incurred by use of that pesticide. *ENF 86-023 Label Restrictions on Written Recommendations.*

A more effective way to meet this requirement would be for the adviser to revise his recommendation form to include typical warning statements. This way, the adviser could check the appropriate box unless specific statements were called for.

Recommendations -- Signing

FAC § 12003(g) requires the PCA to "sign" each written recommendation. A signature can be construed to be any unique "mark" made by the PCA, or with his/her consent, that identifies that particular PCA. This "mark" can be the PCA signature, printed name, license number, or the printed name of the PCB where there is only one PCA. This does not absolve the PCA from the responsibility for accuracy of the recommendation regardless of who entered the data. *ENF 95-034*

Policy Concerning Alternative Means of Signing Pest Control Recommendations.

Recommendations -- Written

Written recommendations must include any applicable preharvest or reentry intervals and any crop use or plant back restrictions. A statement such as “preharvest interval - see label” is not adequate. The recommendation must show the specific restriction or interval. *ENF 85-072 Written Recommendations.*

Registered Professional Foresters

Registered professional foresters (RPF), in the practice of providing silvicultural advice, do not fall within the scope of the PCA licensing requirement. However, in situations where the RPF gives advice in the form of silvicultural prescriptions and includes the use of specific pesticides, the RPF would have to be licensed as a PCA. *ENF 89-116 Letter to Kenneth Delfino Department of Forestry and Fire Protection.*

Responsibility

3CCR § 6632 requires that a pest control business has a “recommendation” before making an agricultural application of a restricted material. Generally, this will be a copy of a recommendation made by a licensed PCA. It can, however, be provided by the operator of the property. The operators of properties are legally responsible for any recommendations they write. *ENF 83-027 Policy on Need for an Adviser License; ENF 83-040 Agricultural Pest Control Adviser Policy (Reaffirms ENF 83-027).*

Seed Treaters

A person making recommendations for treating seed, who either owns or is employed by a firm in the business of treating seed, is not required to be licensed as an agricultural pest control adviser. This type of pest control is considered to be an industrial use. Also, if the grower specifically instructs the seed treater as to the desired treatment, a Pest Control Advisers License is not needed.

Chapter 9

STRUCTURAL PEST CONTROL COMPANY *16CCR §§ 1913-1937*

Structural Pest Control Company Registration

Who Needs It?

- C Any company that is to secure structural pest control work for hire, identify pest infestations or infections, conduct inspections, submit bids for, or contract in behalf of a structural pest control company, must register with the Structural Pest Control Board (SPCB).

Exemptions.

- C Public utilities operating under the regulations of the State Railroad Commission (with certain specified exceptions); persons engaged only in agricultural pest control work under permit or license of DPR or a county agricultural commissioner; pest control performed by persons on property owned, leased, or rented by them; government agencies, authorized representatives of an educational institution or state or federal agency engaged in research or study of pest control, or engaged in investigation or preparation for expert opinion or testimony if not on their own behalf; and certified architects and registered civil engineers acting within their professional capacity. *B&PC § 8555.*
- C Licensed contractors preserving wood. *B&P § 8556.*

What's Required?

- C The applicant must be a minimum of 18 years of age and possess the qualifications established by SPCB and pass the examination administered by SPCB; applicant must apply to SPCB for issuance of the operator's license within one year of passing the examination. *B&PC § 8561.*

- C Must be licensed by SPCB as a structural pest control operator in one or any combination of the following categories of structural pest control:
B&PC § 8560

- Branch 1 - Fumigation

- Branch 2 - General Pest Control

- Branch 3 - Termite Control

- Wood Roof Cleaning and Treatment

- C Must submit an application to the Registrar of SPCB containing a statement indicating the applicant is seeking the issuance of a structural pest control company registration certificate.
- C Pay a registration fee of \$120.00 for three years. *16CCR § 1948.*

Additional Requirements

- C The applicant must provide proof of the minimum amount of actual experience (as an employee of a registered California company) in the particular branches of pest control in which they desire to be licensed.
B&PC § 8562
- C There must be a qualifying manager or managers for each branch of pest control in which the registered company is engaged in business.
B&PC § 8560
- C Each branch office must register with SPCB. *B&PC § 8612*
- C The branch office registration fee is \$60.00 for three years. The registered company must designate a person licensed by SPCB to supervise the branch office. *B&PC § 8611*
- C Each company shall notify the commissioner prior to operating.
FAC § 15204(a).

Aerosol Container Disposal

When the Department of Health Services exempted the aerosol pesticide products used by pest control operators from regulation as hazardous waste (via February 26, 1987 letter), it reserved a decision on 8- and 15-pound containers. A letter of April 13, 1987 included 8- and 15-pound containers of aerosol pesticides used by

pest control operators in the exemption from regulation as hazardous waste under the following conditions:

- C The aerosol containers are emptied to the extent practical under normal use.
- C The aerosol containers are disposed at the site where used and in accordance with the label instructions required by EPA.
- C The total number of 8- and 15-pound aerosol containers used by pest control operators in California does not significantly increase.

Pest control operators still need to comply with the disposal requirements of the appropriate Regional Water Quality Control Board and local government agencies. *ENF 87-011 Exemption on Disposal of Aerosol Containers; Memo from Harvey Logan, Executive Vice President of Pest control Operators of California.*

Chloropicrin as a Warning Agent

The following chloropicrin products can be used as warning agents:

Registered chloropicrin pesticides which have directions for use as a warning agent.

Chloropicrin products marketed solely for use as warning agents.

Registered chloropicrin products used solely as a warning agent are exempt from pesticide use reporting requirements. *ENF 80-019 Chloropicrin as a Warning Agent.*

Warning Signs

Warning signs placed under a tarpaulin shall not be required to state the time the fumigant was injected. These signs are required to have the date of the fumigation and are used as a warning after aeration and until certification for reentry. The warning signs must be placed prior to the commencement of the fumigation.

ENF 96-068 (Amended) B&PC § 8505.10 Color and Contents of Signs; Size of Letters.

Chapter 10

STRUCTURAL PEST CONTROL OPERATOR

B&PC § 8562

Structural Pest Control Operator License

Who Needs It?

- C Any person who is the qualifying manager of a registered structural pest control company or any individual who is to secure structural pest control work for hire, identify pest infestations or infections, conduct inspections and submit bids for, or contract on behalf of a registered structural pest control company, must be licensed by the SPCB as a structural pest control operator. Information regarding the licensing of Structural Pest Control Operators should be referred to:

Structural Pest Control Board
1418 Howe Avenue, Suite 18
Sacramento, California 95825
(916) 263-2540/Fax (916) 263-2439

Exemptions

- C Public utilities operating under the regulations of the State Railroad Commission (with certain specified exceptions); persons engaged only in agricultural pest control work under permit or license of DPR or a county agricultural commissioner; pest control performed by persons on property owned, leased, or rented by them; government agencies; authorized representatives of an educational institution; or state or federal agencies engaged in research or study of pest control, or engaged in investigation or preparation for expert opinion or testimony if not on their own behalf; and certified architects and registered civil engineers acting within their professional capacity. *B&PC § 8555.*

What's Required?

- C Applicant must be a minimum of 18 years of age and possess the qualifications established by SPCB; pass the examination; apply for the operator's license within one year of passing the examination.
B&PC § 8561.
- C Submit an application to the Registrar of SPCB indicating the applicant is seeking a structural pest control operators license with SPCB.
B&PC § 8562.
- C Must be licensed by SPCB as a structural pest control operator in one or any combination of the categories of structural pest control: *B&PC § 8560.*

Branch 1 - Fumigation
Branch 2 - General Pest Control
Branch 3 - Termite Control
Wood Roof Cleaning and Treatment

Additional Requirements.

- C Applicants must provide proof of the minimum amount of experience (as an employee of a registered California company) in the particular branches of pest control in which they desire to be licensed. *B&PC § 8562.*
- C One-half of the required experience must be as a licensed field representative or the equivalent of such experience.
- C Licenses expire every three years on June 30th. The renewal fee is \$150.00.
- C Upon renewal of an operator's license, the applicant must provide proof of completing the required continuing education hours or pass a continuing education examination. The continuing education examination fee is \$25.00.

Pesticide Sales to Structural Pest Control Operators

As a result of the passage of Assembly Bill 294, which became effective January 1, 1985, Restricted Material Permits are no longer required for licensed Structural Pest Control Operators. This exemption applies only to pesticides used in structural pest control, such as methyl bromide, chloropicrin and Avitrol. However, a copy of the license, certificate, or signed statement required by *3CCR* § 6568(b) is still mandatory for the purchase of federally restricted pesticides.

Chapter 11

STRUCTURAL PEST CONTROL FIELD REPRESENTATIVE

B&PC § 8564

Structural Pest Control Field Representative License

Who Needs It?

- C Any person who is to secure structural pest control work for hire, identify pest infestations or infections, conduct inspections, and submit bids for or contract in behalf of a registered structural pest control company must be licensed by SPCB as a structural pest control field representative. *B&PC § 8507.*

Field representatives must work only for a registered structural pest control company and may not work in their own behalf.

Exemptions.

- C Public utilities operating under the regulation of the State Railroad Commission (with certain specified exceptions); persons engaged only in agricultural pest control work under permit or license by DPR or a county agricultural commissioner; pest control performed by persons on property owned, leased, or rented by them; governmental agencies, authorized representatives of an educational institution or state or federal agencies engaged in research or study of pest control, or engaged in investigation or preparation for expert opinion or testimony if not on their own behalf; and certified architects and registered civil engineers acting within their professional capacity. *B&PC § 8555.*

What's Required?

- C Must be a minimum of 18 years of age and possess the qualifications and pass the examination administered by SPCB; must apply to SPCB for the field representatives license within one year from the date the applicant passed the examination. *B&PC § 8563*

- C Submit an application to the Registrar of SPB containing a statement indicating the applicant is seeking a field representatives license. *B&PC § 8564.*
- C Pass a written examination administered by SPCB in the categories (Branch 1, 2 or 3 or Wood Roof Cleaning and Treatment) in which the applicant is intending to be licensed. *B&PC § 8566.*
- C Payment of the \$30.00 license fee for three years. *16CCR § 1948.*

Additional Requirements.

- C When applying for a field representatives license in a specific branch, the applicant must provide SPCB with proof of training and experience required in the specific branches for the appropriate license. *B&PC § 8564.*
- C The written examination will test the applicant's knowledge in the following areas: safety laws of California relating to the branches of pest control for which the person is applying; chemicals used in pest control; the theory and practice of pest control in the branches in which the applicant is seeking the license; other state laws, including safety or health measures, or practices within the scope of structural pest control in the various branches; and the applicant's knowledge of the Business and Professions code as related to structural pest control. *B&PC § 8566*
- C Upon renewal of the field representatives license, the applicant must pay a continuing education examination fee of \$10.00 for each branch examination taken, or pass the continuing education examination during each three-year renewal period. *16CCR § 1948.*

Chapter 12

STRUCTURAL PEST CONTROL APPLICATOR

B&PC § 8564.6

Structural Pest Control Applicator License

Who Needs It?

- C Any unlicensed person performing pest control for hire employed by a company engaged in the business of structural pest control, and registered with SPCB. *B&PC § 8564.5.*

What's Required?

- C Pass a written examination administered by SPCB authorizing the person to apply any chemical in Branch 2 (General Pest Control) or Branch 3 (Termite Control). *B&PC § 8564.5(b)* or,
- C Pass a written examination administered by SPCB authorizing the person to apply any wood preservative as part of a roof restoration process in Wood Roof Cleaning and Treatment. *B&PC §§ 8564.5(c) and 8590.1.*
- C An examination fee of \$15.00 per certification as an applicator for each branch in which an examination is taken. *16CCR § 1948(b).*

Additional Information.

- C For Branch 2 or 3, the examination will test the applicant's knowledge of pest control equipment, pest control application procedures, pesticide mixing and formulation, and pesticide label directions. *B&PC § 8564.5(b).*
- C For wood roof cleaning and treatment, the examination will test the applicant's knowledge of wood preservative application equipment, wood preservative application procedures, mixing and formulation, and wood preservative label directions. *B&PC § 8564.5(c).*

- C After passing the written examination in Branch 2 or 3, the person may apply any chemical for a period not to exceed three years, at which time the individual must pay a renewal fee. *B&PC § 8564.5(c)*.
- C Current law does not authorize a general applicator to apply any chemical in Branch 1- Fumigation.
- C This general applicator card is not the same as a certified applicator license.

The *B&PC § 8555(b)* exempts from the Structural Pest Control Act persons engaged only in agricultural pest control work under permit or license by DPR or a commissioner. *FAC § 11531(a)* exempts from the provisions of the Pest Control Operations Act any activity defined as structural pest control and required to be licensed under the provisions of *Chapter 14 of Division 3 of B&PC*.

Structural Pest Control Defined

B&PC § 8505 defines structural pest control, in part, as follows: “Structural pest control” and “pest control” as used in this chapter are synonymous. Except as provided in *B&PC § 8555* and elsewhere in this chapter, it is, with respect to household pests and wood destroying pests or organisms, or such other pests which may invade households or other structures, including railroad cars, ships, docks, trucks, airplanes, or the contents thereof, the engaging in, offering to engage in, advertising for, soliciting, or the performance of, any of the following: identification of infestations or infections; the making of an inspection or inspections for the purpose of identifying or attempting to identify infestations or infections of household or other structures by such pests or organisms; *B&PC § 8555* states that this chapter does not apply to (b) Persons engaged only in agricultural pest control work under permit or license by DPR or a county agricultural commissioner. However, this does not mean that regulation under the Structural Pest Control Act may be circumvented by performing structural pest control under an agricultural pest control license.

Thus, both laws recognize that certain activities can be construed as either “structural” or “agricultural” pest control, and the effect of the exemptions in such cases is to require one or the other class of license, but not both.

Control of pests invading structures is strictly structural pest control, whether carried on within or outside of the structure. Control for the purpose of eliminating ants or earwigs as garden or orchard pests, or to assist in the control of honeydew-producing insects, is strictly agricultural pest control, even where treatment is applied adjacent to a structure, and incidentally prevents invasion of the structure.

Any application of a pesticide to plants, irrespective of their location in respect to a structure, is agricultural pest control, except for incidental contact of foliage or plants with a pesticide arising from structural pest control activities. Pesticide applications made to indoor plants in malls, offices, etc., would be agricultural pest control. Control of fleas, as pests to humans and their pets, in or around a structure, including treatment of lawn areas nearby for fleas, is structural pest control.

Control of pests infesting a structure or its contents, whether by fumigation or other means, is structural pest control. This would include birds infesting structures and control of pests infesting grain or other agricultural products. Where such products are stored or placed within structures, including railroad cars and grain bins, control may lawfully be applied under either type of license.

Removal of live bees from a structure, if done for hire, does not require a Structural Pest Control License. The use of a pesticide to destroy diseased bees in a structure to prevent infection of an apiary can, however, be construed as agricultural pest control.

Treatment to roofs with a pesticide(s) to control fungi, algae, bacteria, etc., would require a Structural Pest Control License if done for hire. *ENF 91-004 Increased Structural Monthly Pesticide Use Report Stamp Fee and New Branch 4 Licensing Category.*

Chapter 13

GENERAL POLICY GUIDELINES

Authority to Inspect

Three Enforcement Letters, referred to below, detail court decisions which support warrantless inspections in closely regulated industries. The desire for compliance should be tempered with respect for the individual's right to privacy. Where that individual is a licensee, is registered or holds a permit, you have broad authority to inspect relevant phases of the operation; where the individual is a private citizen, inspection authority is subject to some safeguards, but it is still available in most cases. However, no amount of instruction or discussion can be substituted for your own good judgement in these matters. All inspections should be conducted at a reasonable time and in a reasonable manner. If a licensee or permittee refuses an inspection, the commissioner will decide on further action.

ENF 78-074 Pesticide Use Inspections.

ENF 78-083 Pesticide Use Inspections.

ENF 83-090 County Inspection Guide.

Backflow Prevention

The purpose of a backflow prevention system, required by *3CCR § 6610*, is to prevent reversal of flow back to the outside water source. The regulations specify three types of backflow prevention systems:

1. **Air-Gap Separation.** A physical separation between the discharge end of a potable water supply and an open or nonpressurized receiving tank. Many water companies and health departments require the air-gap separation to be at least double the inside diameter of the supply pipe, but never less than one inch.
2. **Reduced Pressure Principle.** An assembly containing two independently acting check valves together with a hydraulically operating, mechanically independent, pressure differential relief valve located between the check

valves. This system should have tightly closing shut-off valves at each end of the assembly.

3. Double Check Valve Assembly. An assembly composed of two independently acting check valves, including tightly closing shut-off valves at each end of the assembly.

Backflow prevention systems must be acceptable to both the local health department and the local water purveyor.

Bag disposal

The California Environmental Protection Agency (Cal-EPA) has clarified its environmental policy for the disposal of pesticide bags. The Department of Toxic Substances Control (DTSC) has adopted a policy and regulations stating that pesticide bags properly emptied will not be regulated as hazardous waste. These regulations are found in *22CCR, §§ 66260.10, 66261.7, and 66262.70.*

The options for disposal of properly emptied pesticide bags are:

Land Disposal

Handlers of empty bags should wear all protective clothing and use safety equipment which is recommended for the handling of the chemical in the bag.

Empty bags stored before transit to a landfill need to be in an area of controlled access. Bags can be stored for no longer than 90 days.

Dispose of sulfur bags in any Class III landfill. Empty sulfur bags should be flattened and bundled separately from other bags.

Dispose other properly emptied pesticide bags at lined Class III landfills or on a site-specific basis at unlined Class III landfills subject to approval by the Regional Water Quality Control Board. Bags should be flattened and baled or bundled.

Bag Burning

Obtain an agricultural burn permit from the local air pollution control district.

Burn at the site of the application under the conditions of an agricultural burn permit issued by the local air district to the grower. Only one day's accumulation of empty bags can be burned in any one day. Only paper bags, inner bags, and outer containers may be burned. The ash does not need to be tested.

A commercial applicator, either ground or aerial, can burn properly emptied pesticide bags where the bags are opened and emptied at the application site and under the agricultural burn permit issued to the grower by the local air district.

The person burning the bags and anyone working in close proximity must wear eye protection and respiratory protective equipment rated for protection against the particular type of pesticide material being burned, as well as airborne particulates.

The role that the commissioner takes in enforcement of these regulations is at the commissioner's discretion. *ENF 95-052 FYI - Update on Empty Pesticide Bag Disposal; ENF 96-004 Cal/EPA's Policy on the Disposal of Properly Emptied Pesticide Bags; ENF 97-006 Cal/EPAs Policy on the Disposal of Properly Emptied Paper Bags.*

Complaint Investigation Policy of DPR

DPR's policy is to investigate all complaints that come to the attention of DPR or the commissioner alleging misuse of pesticides or pesticide damage or injury to crops, property, human or animal health, or the environment. The agricultural commissioner's office is the lead agency in consultation with DPR.

Drift

Pesticides are applied to a particular target such as a field, orchard, structure, or even an individual plant. When the pesticide moves off, or away from, the application target, it is said to have drifted; hence, the term “pesticide drift.”

A limited number of pesticides may move away from the application target due to volatilization of the pesticide. Volatilization is a characteristic of the pesticide itself which cannot be controlled by the applicator. When pesticide drift results from factors other than volatilization, the applicator may have been able to prevent it and may have violated a pesticide law or regulation. *ENF 97-036 Pesticide Drift Enforcement Policy.*

Drift -- Enforcement

While there may be rare exceptions, in most cases the existence of damage or contamination (e.g., fish kills, phytotoxicity, damaged crops, or human exposure) establishes the fact that the damage or contamination could have reasonably been expected to occur. In those cases, the applicator should not have made (or continued) the application, and the pest control business or the applicator should be cited for violating *3CCR § 6614(b)*.

Some pesticide product labels direct applicators not to apply the product when conditions favor drift. If the applicator applied the pesticide under conditions the label directed against, the pest control business or the applicator can be cited for violating *FAC § 12973* (using the pesticide in conflict with its registered labeling).

When an investigator determines there is sufficient evidence showing that a law or regulation was violated in a case or complaint involving pesticide drift, the *DPR Enforcement Guidelines* should be used to determine the appropriate action. In most instances, the first violation warrants an Agricultural Civil Penalty or State action. Enforcement actions must be undertaken without regard to outside events, such as private legal action taken by persons alleging pesticide injury or damage. Taking established, consistent enforcement action maintains the integrity of the pesticide regulatory program and provides an even playing field for the regulated community. *ENF 97-036 Drift Enforcement Policy.*

Drift -- Regulatory Standards

Pesticide labels often direct applicators not to apply products when environmental conditions favor drift. Also, as discussed below, laws and regulations direct applicators to operate in a manner to prevent substantial drift and not to apply pesticides when there is a reasonable possibility of contamination of persons or damage to nontarget property.

FAC § 12972 requires applicators to use pesticides in a manner that will prevent substantial drift to nontarget areas. The regulations define the term “substantial drift” as meaning that “the quantity of pesticide outside the area treated is greater than that which would have resulted had the applicator used due care.”

Also, *3CCR § 6614* is entitled “Protection of Persons, Animals and Property.” Subsection(b) requires applicators not to make or continue an application when:

There is a reasonable possibility of contamination of the bodies or clothing of persons not involved in the application process;

There is a reasonable possibility of damage to nontarget crops, animals or other or private property; or,

There is a reasonable possibility of contamination of nontarget public or private property, including the creation of a health hazard, preventing normal use of such property...”

Subsection (a) requires applicators to evaluate meteorological conditions, the application equipment they intend to use, and the target and surrounding properties to determine the likelihood of harm or damage from the application. This information aids the applicator in deciding whether to begin or continue an application and how to conduct the application. Pesticide applicators have a duty to stop or reschedule an application when conditions exist which could reasonably be expected to cause contamination or damage.

Other regulations prescribe application standards for specific pesticides to minimize drift. These include Drift Control *3CCR § 6460*, Propanil *3CCR § 6462*, Phenoxy and Certain Other Herbicides *3CCR § 6464*, Paraquat *3CCR § 6466* and Cotton Harvest Aids *3CCR § 6470*.

Drift -- U.S. EPA Aerial Application Guidance Document

This document contains aerial drift reduction advisory information. DPR considers pesticide drift to be an off-target movement of pesticide residues as a direct result of an application, not from volatilization. Some off-target movement at a measurable level is expected and may occur from ground and air applications. In some instances after a pesticide has been applied, some people may smell an odor. The presence of an odor does not necessarily mean that the applicator has violated requirements, or that drift has occurred and public health is at risk. 3CCR § 6614 further emphasizes the need for adjustments to the application of pesticides on a time-specific basis, rather than through prescription. The factors described in the guidance document offer warranting adjustments to applications.

ENF 95-068 U.S. EPA Aerial Application Guidance Document.

Emergency Preparedness -- Keeping Pesticides Out of Flood waters

Here are some important guides for growers and other pesticide users to follow when storing and handling pesticides and pesticide containers:

- Cut back on the amounts and types of pesticides stored.
- Keep pesticide containers out of the way of any activities that might knock over a jug or rip open a bag.
- Keep pesticide containers in a secured and locked enclosure when not in use.
- Store pesticide containers high above the floor or ground level.
- Evaluate the design of your pesticide storage area.
- Put your pesticide storage structure down slope and away from a wellhead or any surface water.
- Ensure that pesticide containers are properly identified, either with the registrant's product label or a "service container label."
- Keep your inventory list current.
- Dispose of properly rinsed pesticide containers and properly emptied pesticide bags according to product labeling directions or in an approved landfill.
- Obtain an agricultural burn permit from the local air pollution control district, and burn empty pesticide bags when that is an option.

- Report any hazardous situation involving agricultural chemicals to your local agricultural commissioner's office. *ENF 98-013 Emergency Flood Preparedness Fact Sheet.*

Formaldehyde -- Occupational Safety and Health Administration (OSHA) Standard

This standard is found on the label of Formaldehyde Solution 37 (U.S. EPA Registration Number 813-32-AA) and other pesticides which have formaldehyde as an active ingredient. These products are registered for use in citrus packing houses and poultry confinement buildings.

The subject labeling refers to *29CFR § 1910.1048* and states that exposure levels of personnel handling the product must be monitored according to specific instructions listed on the label. The label does not indicate any exemption to this requirement; however, *29CFR § 1910.1048(d)(ii)* does provide, “Where the employer documents, using objective data, that the presence of formaldehyde or formaldehyde-releasing products in the workplace cannot result in airborne concentrations at or above the action level or STEL (Short-Term Exposure Level) under foreseeable conditions of use, the employer will not be required to measure the employee exposure to formaldehyde.” The paragraph on the label which requires the monitoring begins, “In accordance with Formaldehyde regulation *29CFR § 1910.1048...*” Therefore, compliance with this section is considered compliance with the label. When performing inspection on the use of these products, you should determine if personnel are being monitored. If handlers are not being monitored, you should investigate the lack of monitoring as a possible label violation. You should request that the employer provide evidence that the operation has qualified for an exemption. If the employer has documentation from OSHA which indicates that the specific site being inspected has qualified for an exemption from monitoring, the operation can be considered in compliance with that portion of the label. If any other type of documentation is offered by the employer as qualifying for an exemption, the inspector should refer the case to their Senior Pesticide Use Specialist. The Senior Pesticide Use Specialist will consult OSHA on the validity of the documentation.

OSHA has indicated that this exemption is only valid if the employer documents site-specific data which documents that personnel will not be exposed to levels of formaldehyde above the allowed levels. Approval of any exemption to the formaldehyde monitoring requirement of 29CFR is the responsibility of OSHA. *ENF 97-060 Enforcement Guidelines on Formaldehyde Pesticides with Label Reference to Federal OSHA Standards.*

Faulty Recommendations Followed by Applicators

According to *FAC §§ 12971 and 12973*, both the applicator and the person making the recommendation (adviser) are clearly in violation when an applicator applies a pesticide in accordance with a recommendation that is in conflict with approved labeling. Disciplinary action should be against both parties for use and recommendation in conflict with approved pesticide labeling. The adviser is responsible for certain judgment factors in a recommendation just as the applicator is responsible for the condition of his equipment and monitoring weather conditions during the application. Each is responsible for complying with the label. *ENF 75-025 Applicators Who Follow Adviser's Recommendations.*

Fraudulent Pesticide Sales

Complaints of illegal sales tactics or misrepresentation of products by firms should be documented and submitted to DPR's Pesticide Enforcement Branch so that appropriate enforcement steps by State or federal agencies can be taken.

Information needed in a statement from the purchaser documenting the reported complaint includes the following, if available:

- Complainant or other party;
- Salesperson's name and company represented;
- Name of product offered for sale;
- Type of claims made by salesperson;
- Truck line or carrier by which product would be delivered;
- Other information (date of call, time of call, price per gallon, farmer's statement, etc.).

Harvest Prohibition

FAC § 12672 allows the Director or commissioner to prohibit harvest if a preharvest interval has not been complied with, but only until the interval has expired. In these cases, no laboratory analysis confirming residue is necessary. However, even though laboratory analysis demonstrates that the crop does not contain pesticide residues in excess of established tolerances, a crop cannot be harvested before the expiration of a preharvest interval.

FAC § 12601 allows the Director to seize unharvested produce suspected of carrying an illegal residue if it is within one week of being in a harvestable condition. Samples confirming the illegal residue must be analyzed within 24-hours (*FAC § 12604*).

FAC § 12673 allows the Director or commissioner to prohibit the harvest of any produce that carries pesticide residue in excess of permissible tolerance. *FAC § 12504* defines produce as any food in its raw or natural state.

FAC § 12648 allows the Director to seize or prohibit harvest of any plant, crop, or commodity that has been treated with an unregistered pesticide.

Even though field samples show an illegal residue, the plant, crop, or commodity, as marketed, may be legal due to residue degradation, growth dilution, trimming, or washing.

When illegal residues are suspected and no confirming analysis has been performed, DPR or county staff should collect samples and submit them to CDFA's Center for Analytical Chemistry for analysis. Sampling should be done in accordance with official sampling procedures of DPR (see the *Pesticide Enforcement Investigative Sampling Manual*).

If follow-up sampling and analyses are necessary, the farm operator, packinghouse, etc., should use the services of an accredited commercial laboratory. When commercial laboratory results show residues to be legal, a confirming sample may be submitted to CDFA's Center for Analytical Chemistry.

Either DPR or county staff may issue an order to stop or prevent harvest. Except when urgent action is required, DPR or county staff should confer and decide the appropriate agency to issue the order. The agency that issues the order will provide a copy of the order to the other agency and provide information on any changes.

The order to stop or prevent harvest must be in writing and should be hand-delivered to the farm operator along with a copy to the harvest labor contractor when applicable. Releases of stop or prevent harvest orders should also be in writing.

DPR and commissioner staff should cooperate with the farm operator in attempts to keep losses to a minimum by any feasible actions such as: (1) reconditioning by washing, trimming, or sorting; (2) allowing harvest of portions of the field if investigation and analyses show that illegal residues are not present throughout the field; and (3) resampling when commercial laboratory analyses indicate degradation of residues to legal levels. *ENF 83-054 Legality of Deviating From Requirements of a Label.*

Home Garden and Ranchette Use

Ranchette and home garden situations that produce commodities for sale fall under the definition of agricultural use and, therefore, would not be exempt from pesticide use reporting regulations, regardless of the size of the production area. Ranchette and home uses along fence lines and on large landscaped or unimproved areas are exempt from the reporting requirements. A pesticide label may contain use rate directions that are in rate per acre increments. An application of this pesticide to a five-acre ranchette pasture would still be considered a home use and would be exempt from pesticide use reporting, but the use would not be inconsistent with the label directions. *ENF 90-019 100% Pesticide Use Reporting; (Policy Letter No. 7) Questions 10 & 11; ENF 90-074 Letter to Ron Gilman, Santa Barbara County Agricultural Commissioner; Information Request 91-009 Ranchettes - 100% Use Reporting.*

Interplanted Crops

Each pesticide application to a crop grown in an interplant cropping system, such as beans grown between the rows of a non-bearing almond orchard, will have to be reviewed separately to determine if the application can be made without contacting the crop for which the pesticide is not registered. Crops with residues of unregistered pesticides or over-tolerance residues at the time of harvest are illegal and may be required to be destroyed. Certain formulations, such as granular, or certain application methods, such as a ground rig or drip irrigation systems, may provide the necessary safety precautions. Aerial applications, fumigants, and soil-applied systemic materials would, in most cases, be prohibited. *ENF 86-057 Pesticide Application to Interplant Cropping System; ENF 89-057 Chlorpyrifos (Lorsban, Dursban) Users.*

Rinsate Disposal

Except for the home use exemptions provided in 3CCR § 6686, each empty pesticide container which has held less than 28 gallons of a liquid pesticide must be rinsed at the time of use. Holding empty pesticide containers for rinsing later is not allowed.

In general, any pesticide rinsate, concentrate, diluted tank mix solution, or unrinsed container may be considered a "hazard waste." The handling and disposal of materials designated as hazardous wastes are regulated by DTSC.

Any unused pesticide material remaining in a container or spray tank, and the water used to clean or rinse the container and equipment after an application of a pesticide is completed, can be applied directly onto the originally treated crop or site for which the pesticide material is registered. This practice would basically be considered as part of the original application process rather than as a disposal or discharge of a hazardous waste. If the pesticide rinsate is applied to non-registered areas, the application would be considered as a "use in conflict."

ENF 88-082 Letter to Ray Perkins, Yolo County Agricultural Commissioner; Information Request 91-059 Onsite Disposal of Pesticide Rinsate.

Sharecroppers

A “sharecropper” is a person who rents a piece of property in return for a percentage of the harvested crop; whereas, an employee is one who is hired by another to work for wages or salary. There are several questions to ask when deciding whether an individual is a sharecropper or an employee:

- Does the person decide when the crop will be harvested?
- Does the person decide what price the crop will bring?
- Does the person decide to whom the crop will be sold?
- Does the person receive compensation in cash directly from the property owner?

If the answers indicate a general lack of control over the operation of the crop by the person tending it, it is safe to assume that person is an employee, not a “sharecropper.” The owner of the property, as an employer, must follow all provisions of 3CCR pertaining to worker health and safety. *ENF 90-103 Sharecropper/Employee Role in Crop Production.*

Smoke: Requirement for a Visible Column

The restricted material regulations require, in 3CCR § 6464(b), that a visible column of smoke be employed at the time and place of air applications of restricted herbicides in the Central Valley below 1,000 feet elevation during the period beginning March 16 and continuing through October 15 of each calendar year. A visible column of smoke can indicate inversion conditions while the use of flags and gauges can only indicate wind direction and speed. Smoke generated by equipment attached to the aircraft making the application would not be adequate. The smoke would not be a column and in most cases would not be continuous. In any instance not already specifically covered by regulation, a column of smoke may be expressly required as a condition of a Restricted Material Use Permit. You should contact State and local air pollution districts regarding any additional restrictions and in obtaining any required permits.

Statute of Limitations

This policy describes the differences between the authority for and the statutes of limitations on civil penalty actions brought under FAC and B&PC.

Civil Penalties Pursuant to FAC:

Administrative civil penalties are authorized by *FAC § 12999.5* which allows the county agricultural commissioner to levy a fine against any person who violates certain sections of FAC and 3CCR. This includes structural pest control licensees and registered companies found in violation of those FAC and 3CCR sections that apply to them.

The statute of limitations governing *FAC § 12999.5*, civil penalty actions, is *FAC § 13000* which limits these penalty actions to two years from the date of the violation. The Notice of Proposed Action (NOPA) must be issued within two years of the date the violation occurred.

Under certain circumstances, *FAC § 13000* may impose a shorter time limit on actions taken by the Director of DPR. The Director must commence the action within one year from the date a completed investigation is submitted. For example, if the violation occurred on January 1, 1997, the commissioner could issue a NOPA any time prior to January 1, 1999. If on July 1, 1997, the commissioner submitted a completed investigation of this violation to the Director, the state action would have to start by July 1, 1998.

The one-year limitation after a completed investigation is submitted to the Director was intended by the authors of the legislation to apply only to actions taken by the Director. However, the law is written in such a way that it could be interpreted by a hearing officer to apply to a commissioner action as well. Commissioners routinely submit investigation reports to DPR for review and data collection purposes. The department recommends that in cases where an investigation report is submitted to DPR and the commissioner plans to take civil penalty action, the commissioner issue the NOPA within one year from the submission of the report even if it has not been two years from the date of the violation.

Civil Penalties Pursuant to the B&PC:

Commissioners are authorized to levy civil penalties pursuant to *B&PC § 8617*. Under this section, penalties can be levied only against structural pest control licensees and registered companies for violations of any of the covered sections of the B&PC, FAC, 3CCR and 16CCR.

The B&PC provides no specific statute of limitations for these actions. Therefore, the general statute of limitations found in the *Code of Civil Procedure* § 340 limits actions to within one year from the date of the violation.

B&PC § 8621 describes a two-year limitation for filing a complaint with the Structural Pest Control Board. However, this section does not apply to civil penalty actions by the commissioner.

Although these laws provide maximum time limits for a regulatory agency to pursue enforcement action, the department recommends that civil penalty actions are taken in as timely a manner as possible. Lengthy delays between the detection of a violation and the civil penalty action may weaken a case or reduce the effectiveness the action has on the alleged violator. Conversely, unreasonable delays may adversely affect the alleged violator's ability to provide an adequate defense, thereby diminishing their due process rights. *ENF 98-012 Authority and Statute of Limitations on Civil Penalty Actions for Pesticide Violations.*

Treated Area

In the context of *3CCR* § 6618(b), the "treated property" is the same as "treated area" or the physical location where a pesticide has been applied.

Information Request 92-16 3CCR § 6618(a) Notice. Structural Pest Control.

Unattended Pesticides

"Attended" means a responsible person present in the vicinity at all times to maintain control over the pesticide to prevent contact by unauthorized persons. Adjacent to roadways or populated areas, a person must have pesticides in sight.

NOTE: Certain materials are exempt from storage requirements according to *3CCR* § 6686(b). This exemption may be waived, however, if the commissioner determines that a hazard to public health or the environment exists.

"Enclosure" means a truck or trailer with side racks, the top of which is a minimum height of six feet above the ground, a lockable storage compartment, or a locked, fenced area.

Vehicle Posting

Posting of pest control service vehicles is generally not required provided:

The primary use and purpose of these vehicles is to transport and apply rather than store, pesticides.

The vehicle is not a fixed pesticide storage site.

Pest control vehicles are identified, as required, with descriptive language that denotes pesticide activity and uses as specified in *3CCR § 6630*.

Service containers and pesticides are attended or locked at all times, as specified in *3CCR §§ 6670 & 6672*.

If the pest control operator has no fixed storage area other than the service vehicle and pesticides labeled with the signal word “Danger” or “Warning” are being stored, then vehicle posting is required. *ENF 88-031 Posting of Signs on Pest Control Service Vehicles*.

Wildlife-related Pesticide Inquiries

Commissioners are responsible for reviewing pesticide application sites to consider potential hazards to wildlife, fish, and endangered species. The California Department of Fish and Game (DFG) officials have volunteered to provide information on request by furnishing a department review of the particular situation. It is anticipated that inquiries can be answered within two days. Questions can be handled by telephoning DFG, Pesticide Investigation Unit, (916) 358-2950.

Report Pesticide-related Fish or Wildlife Losses to:

California Department of Fish and Game
Pesticide Investigation Unit
1701 Nimbus Road, Suite F
Rancho Cordova, CA 95670
(916) 358-2950

California Department of Fish and Game
(Region 3)
7329 Silverado Trail, P.O. Box 47
Yountville, CA 94599
(707) 944-5500

California Department of Fish and Game
(Region 1)
601 Locust Street
Redding, CA 96001
(916) 358-2900

California Department of Fish and Game
(Region 4)
1234 E. Shaw Avenue
Fresno, CA 93710
(209) 222-3761

California Department of Fish and Game
(Region 2)
1701 Nimbus Road
Rancho Cordova, CA 95670
(916) 358-2900

California Department of Fish and Game
(Region 5)
330 Golden Shore, Suite 50
Long Beach, CA 90802
(562) 590-5132

Information on the Endangered Species Act, General Questions Regarding Fish and Wildlife

U.S. Fish and Wildlife Service
2233 Watt Avenue Suite 375
Sacramento, CA 95825
(916) 979-2085

Wind Velocity Determination

Wind velocity can be measured most accurately by a suitable anemometer. Follow the manufacturer's instructions for care and maintenance. Occasional calibration with another instrument will give an estimate of accuracy. The behavior of smoke is also an excellent indication of air movement at the site and time of application. Smoke has the advantage of enabling the pilot, the ground crew, and others to have a readily visible and dependable indicator of inversions as well as wind velocity.

Chapter 14

DISCLOSURE OF PESTICIDE RECORDS

ENF 81-076 Department Policy Regarding the Release of Public Records.

ENF 84-039 Division Policy on Release of Medical Records.

All records of DPR's Pesticide Enforcement Branch and commissioners which are subject to disclosure under the provisions of the California Public Records Act *Government Code § 6250 et seq.* are open to inspection by the public during the normal business hours of the office at which those records are located. However, some records are protected from disclosure, i.e., medical files and personnel files the disclosure of which would constitute an unwarranted invasion of privacy, trade secrets, etc., as discussed below.

Any person who wishes to inspect a public record may present their request to the receptionist of the office at which the public record is located. A particular record, or if not known, the particular type or class of records, may be requested. Requests for copies of records also may be submitted by mail and copies of public records will be provided upon payment of fees covering direct costs of duplication.

The following is DPR's Pesticide Enforcement Disclosure policy. If commissioners have a question regarding a particular request for public records, they should contact their county counsel.

Subject to the approval of the Pesticide Enforcement Branch and subject to the limitations that no record shall be removed from the office and that no record shall be damaged, a requester may reproduce a public record with their own reproduction equipment. Commercial copy services also may be allowed to duplicate records on the premises.

The Pesticide Enforcement Branch may temporarily deny or restrict inspection of public records under the following circumstances:

The records at the specific time are required by staff or other State officials in performing their duties.

Supervision of the requester's inspection is, at that specific moment, not possible.

Other members of the public are waiting to inspect the records.

The following procedures may be imposed at the discretion of the Pesticide Enforcement Branch:

Appointments may be required for inspection of public records to ensure supervision of the inspection and availability of the records.

Notice may be required as to which records will be inspected so that the Pesticide Enforcement Branch can have the records available for inspection.

A staff member may be required to be present during inspection.

Records of the Pesticide Enforcement Branch which are public records and must be released upon request include, but are not necessarily limited to:

Notices of Violation and Letters of Warning.

Pesticide use reports.

All licenses and certificates:

Agricultural Pest Control Business License

Agricultural Pest Control Adviser License

Pesticide Dealer License and Pesticide Dealer Designated Agent License

Pest Control Aircraft Pilot Certificate

Qualified Applicator License

Qualified Applicator Certificate

Records of administrative action taken against licensees and certificate holders, including signed stipulations, when such action is final.

Records pertaining to litigation to which DPR is a party when the litigation has been finally adjudicated or otherwise settled.

Records filed with the court are public even though the litigation is pending.

All records relating to pesticide use by any public agency.

Quarantine orders.

Correspondence and memorandums.

The following records of the Pesticide Enforcement Branch are available for inspection, or copying if requested, with certain restrictions necessary to maintain the individual's right to privacy under the Information Practices Act of 1977, *California Civil Code § 1978 et seq.*, or because they are not required to be disclosed under the Public Records Act:

Doctor's First Report

When the request is for a report pertaining to a particular person (or regarding a pesticide episode involving so few persons that their identities are known or easily could be ascertained) and the requester is a member of the general public, you may release only the name of the exposed person and the name, address, and phone number of the exposed person's physician.

Personal information that identifies or describes the exposed person cannot be disclosed by the State (i.e., the exposed person's physical description, social security number, home address, home telephone number, medical information, and statements made by or attributed to that person). *California Civil Code § 1798.24*. Requests for these records should be approved by the Pesticide Enforcement Branch legal staff prior to disclosure.

If the requester is a member of the general public who has obtained a written consent from the exposed person, you may release only the personal information authorized by the written consent. The written consent must have been obtained not more than 30 days before the disclosure, or in the time limit agreed to by the exposed person in the written consent. *California Civil Code § 1798.24(b)*
If the requester is the person to whom the record pertains, or that person's representative such as an attorney and you have received sufficient proof of identity, you may release the entire record.

Other Records Generated by a Pesticide Investigation

If you are conducting an investigation which is not yet complete, you are not obligated to release the investigation files to the public. However, with certain statutory exceptions, if you release the files to one person, you must release them to all persons. *California Government Code §§ 6254(f) and 6254.5.*

If you have completed an investigation, you must release the investigation files upon request, except the following information or records which may be in the files:

Medical information contained in a Pesticide Illness Report and in other records where the source of that information is medical records or interviews with medical personnel treating an individual.

When the request is for records that involve many persons and the requester has not named the persons, or does not know the identities of the persons (i.e., a request for all pesticide episode investigation reports for a certain time period), the personal information regarding the persons to whom the medical information pertains, other than the medical information itself (i.e., person's name, social security number, physical description, home address, and telephone number) should be deleted before the records are released. Medical information is released, but there is no invasion of personal privacy because the information disclosed is not linked to the person to whom it pertains. *California Government Code § 6254(c); California Civil Code § 1798.24.*

Records of complaints

The name, address, and statements of a confidential informant are protected from disclosure. *California Government Code § 6254(f).*

The name, address, and statements of other witnesses are protected from disclosure; however, this information is required to be disclosed to the victims of the incident, the victim's authorized representative, or an insurance carrier against whom a claim has been or might be made unless the disclosure would endanger the safety of a witness or other person involved in the investigation (or endanger the successful completion of the investigation if not yet complete). *California Government Code § 6254(f)*

Records Not Open to Inspection by the Public

The following documents are protected from disclosure and are not open to inspection by the public:

Personnel files. The disclosure of which would constitute an unwarranted invasion of personal privacy. *California Government Code § 6254(c)*.

Records of complaints. The name, address, and statements of a confidential informant. *California Government Code § 6254(f)*.

Preliminary drafts, notes, or interagency or intra agency memos which are not retained in the ordinary course of business, provided the public interest in withholding the records clearly outweighs the public interest in disclosure (*California Government Code § 6254(a)*). If these records are retained, they are presumed to be "retained in the ordinary course of business" and are not protected from disclosure.

Trade secrets (*California Government Code §§ 6254.2 and 6254.7*). DPR's legal staff make the decision as to whether a particular document is a trade secret.

Information acquired in confidence where the public interest served by not making the record public clearly outweighs the public interest in disclosure (*California Evidence Code § 1040(b)(2)*; *California Government Code § 6255*). Use of this exemption is extremely difficult to justify. Consult DPR's legal staff.

NOTE: Records that are protected from public disclosure may be released to other State agencies which agree to treat the material as confidential without losing their protective status. Information regarding informants should be released to other State agencies only on approval of the legal staff.

Persons wishing to inspect public records retained by the Pesticide Enforcement Branch should be asked to fill out a request to inspect public record form as follows, unless they previously have submitted a written request (i.e., a letter) to

inspect the subject records.

Request to Inspect Public Record

Name	Representing (optional)	date
------	-------------------------	------

I wish to inspect the following record.

Complete description:

To be completed by departmental office:

9 Approved	9 Request denied. The requested record is protected from disclosure by law.	9 Request denied. Description inadequate to identify record.
-------------------	--	---

to
State reason(s) below.

Inspected _____

Departmental representative	unit	title	date
-----------------------------	------	-------	------

Records maintained by commissioners typically will be handled as previously set forth for records retained by the Pesticide Enforcement Branch. The Information Practices Act of 1977 *Civil Code § 1798 et seq.* does not apply to county agencies.

Chapter 15

LABELING

Definition:

Pesticide labeling includes the actual label attached to the pesticide container, any supplemental labeling accompanying the pesticide container, any appropriate Section 24c Special Local Need documentation, and any appropriate Section 18 Emergency Exemption documentation.

FIFRA § 2.136 Definitions:

(p) Label and Labeling

(1) Label -- The term “label” means the written, printed or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

(2) Labeling - The term “labeling” means all labels and all other written, printed, or graphic matter:

- (a) accompanying the pesticide or device at any time; or
- (b) to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the Environmental Protection Agency, the United States Departments of Agriculture and Interior, the Department of Health and Human Services, State experiment stations, State agricultural colleges, and other similar federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

Information Requests and Label Interpretations

Information Request policy letters were issued by DPR during the years 1988 through 1995. Most of these letters addressed questions about pesticide label statements. DPR no longer issues Information Requests; label interpretation questions are now addressed in Enforcement Letters.

Questions generated by commissioner staff should be submitted in writing to your liaison Senior Pesticide Use Specialist. Questions should be submitted with all relevant information and documentation such as labeling, Enforcement Letters, Information Requests, and reference to laws, regulations, or this manual. Include your proposed response and discuss problems created by the interpretation.

The Senior Pesticide Use Specialist and the regional Supervising Pesticide Use Specialist Liaison will review these documents to determine if the question has already been addressed by existing interpretations. The Regional Office will provide the commissioner with a written response to a written question covered by existing interpretations.

Questions not covered by existing interpretations will be forwarded with supporting information to headquarters staff who will prepare an Enforcement Letter to address the issue. *ENF 97-047 Pesticide Enforcement Information Requests and Label Interpretations. Supersedes ENF 96-017; ENF 96-017 Pesticide Enforcement Branch Information Requests and Label.*

Directional Versus Informational Label Statements

Label statements can be divided into two general groups based upon their semantic structure; those that are informational and those that are directional.

Informational Statements

Provide facts or information about the product such as: “contents - five gallons;” “flammable mixture;” “this product is toxic to fish;” or “frequent applications may cause the appearance of visible spray residues on foliage.” Information about health or environmental hazards included in the labeling can be used as evidence that the user (or adviser) knew or should have known about the hazard. If necessary precautions were not taken, this can be used to support enforcement action based on negligent operation.

Directional Statements

Directional statements address how the product must be used or handled. Examples are: “wear a respirator;” “mix one quart per ten gallons;” “keep away from heat or open flame;” “do not contaminate water;” or “do not make more than two applications per season.”

Directional statements are conditions of use and generally must be followed or a violation of *FAC § 12973* (conflict with labeling) occurs. The definition of conflict with labeling can be found in *3CCR § 6000*.

The definition lists seven general exemptions from the enforcement of label requirements. The exemptions are listed below along with specific label interpretations related to each exemption. Label interpretations not related to the regulatory exemptions are listed by topic below the regulatory exemptions.

Conflict with Labeling Exemptions

3CCR § 6000. Definitions: Conflict with labeling means any deviation from instructions, requirements, or prohibitions of registered labeling concerning storage, handling, or use except:

- (a) A decrease in the dosage rate per unit treated:

The amount of pesticide (active ingredient) applied per acre may be decreased as long as the label does not prohibit a decreased rate.

- (b) A decrease in the concentration of the mixture applied:

The dilution rate and total volume of diluent applied per acre may be increased (concentration decreased) as long as the total amount of pesticide applied per acre or unit does not exceed the label rate.

- (c) Application at a frequency less than specified:

A pesticide may be applied less often than indicated on a label.

- (d) Use to control a target pest not listed on the label, provided the application is to a commodity or site listed on the label and the use of the product against an unnamed pest is not expressly prohibited.
- (e) Employing a method of application not prohibited, provided other label directions are followed:

Applicators may use a method of application not indicated on a pesticide label; however, the method employed must be consistent with rate and concentration directions and with precautionary statements. Additionally, a method which is inherently hazardous would constitute a violation of *3CCR § 6600* (e.g., "...Perform all pest control work in a careful and effective manner..."). This exemption is restricted by soil incorporation and chemigation policies (see below).

- (f) Mixing with another pesticide or with a fertilizer, unless such mixture is prohibited:

This exemption allows the addition of registered pesticides or fertilizers to a pesticide mixture. It does not allow the addition of unregistered substances, such as sugar or vegetable oil, which are added to enhance the efficacy of the mixture. Any substance which is added to a pesticide to enhance the efficacy of a pesticide is defined in *FAC § 12758* as a spray adjuvant and must be registered as a pesticide. *IR 90 -0 81 Letter to Dr. Stimman, U.C. Davis; ENF 98-035 Site, Method, Concentration and Adjuvant Policies as Applied to Boric Acid Product Borid.*

Some substances other than pesticides or fertilizers are allowed in tank mixes. They include deodorizers (see below) and ph buffering agents such as lime or Nutraphos and cleaning agents such as Nutra-Sol. *Information Request 88-004 Adding lime to Copper Bordeaux; Information Request 91-059 Disposal of Rinsate Containing Neutralizing or Cleaning Agents.*

- (g) An increase in the concentration of the mixture applied, provided it corresponds with the current published guidelines of the University of California.

The dilution rate and volume of diluent applied per acre may be decreased (concentration increased), only when such application rate is included in an authorized, current, printed guideline of the University of California Cooperative Extension for the particular formulation to be used. The crop to be treated must be included, and the per-acre dosage shall not exceed that shown on the pesticide labeling.

Label Policies

Active Ingredient -- Seasonal Use

If two products, which contain the same active ingredient, are applied to the same commodity in the same season, there may be a problem with excess residue, even when the applicator complies with the maximum number of applications per season for each label. This use pattern is not use in conflict with labels, but crops that exceed residue tolerances cannot be marketed. *FAC § 12671* makes it unlawful to pack, ship, or sell any product that carries pesticide residue in excess of the tolerance. *ENF 90-133 Prokil Cryolite 96, EPA Reg. No. 10163-41, Gowan Company; Kryocide Insecticide, EPA Reg. No. 4581-116, Atochem North America.*

Aerial Versus Ground Applications

Usually when a pesticide label specifies a volume in excess of 20 gallons per acre, the method of application is interpreted to be by ground. If the volume per acre specification is 20 gallons or less, it may be assumed the pesticide can be applied by aircraft. In any event, the directions for use must be fully complied with, including the minimum volume of diluent stated on the pesticide label.

Applicator Statements

Statements such as "For use only by professional applicators" or "For use by licensed applicators only" currently have no legal definition, and do not require the user to be a certified applicator nor do they limit the use of the product to licensed agricultural or structural pest control businesses. These products are usually not intended for home use. However, mandatory statements would be enforceable as long as the group, location, or type of use is specifically identified (i.e., For

Commercial Use Only, For Household Use Only).

EPA has adopted a definition of "service person" which relates to the label statement, "only for sale to, or use by, service persons." A service person is defined as "one who provides a service of controlling pests without delivering unapplied pesticides to any person so served." The term service persons includes, but is not limited to: custodians, janitors, pest control operators, maintenance and landscape personnel. Service person does not include homeowners or household employees such as maids, housekeepers, or private gardeners.

ENF 83-080 Serviceperson Labeling.

Avoid Breathing Spray Mist

The label statement, "Avoid breathing spray mist," does not necessarily mean that a respirator is always required. This label statement allows for other methods or equipment such as engineering controls. When these controls cannot mitigate the exposure, respiratory equipment is required. The inspector observing the work practice must make this determination on a case-by-case basis. *ENF 89-073 Worker Safety Questions and Answers, Question 40, page 6.*

Bait Boxes -- Tamper Resistant

Rodenticide labels contain the statement, "Treated baits must be placed in locations not accessible to children, pets, wildlife and domestic animals, or in tamper resistant bait boxes." This statement requires enforcement personnel to make several label interpretations in which two decisions need to be made when faced with rodenticide baiting situations: (1) Is the treated bait in a location not accessible to children, pets, wildlife or domestic animals? (2) If the treated bait is in an accessible location, is a tamper-resistant bait box being used?

Since neither U.S. EPA nor DPR approves bait boxes prior to use, Pesticide Enforcement personnel must judge the adequacy of bait boxes in use situations. Criteria have been adopted from U.S. EPA for enforcement decisions regarding bait boxes containing treated bait. Under these criteria, bait boxes are to be:

- Resistant to weather. (A critical factor of evaluation is placement, i.e., a bait box placed outside will need to be more resistant to weather than one placed indoors or under shelter.)
- Strong enough to prohibit entry by large nontarget species. (Placement is again a factor, i.e., is the bait box likely to be broken or affected adversely by nontarget animals?)
- Equipped with an access panel that can be securely attached (meaning a locking lid or secured rebaiting hatches).
- Equipped with entrances which readily allow target animals access to baits while denying access to larger nontarget species (suggested means for achieving this end include use of baffles, mazes, or small entrances).
- Capable of being anchored securely to resist effort to move the container or to displace its contents.
- Equipped with an internal structure for containing baits (most boxes contain baffles to contain bait).
- Made in such a way as not to be an "attractive" nuisance.
- Capable of displaying "proper" precautionary statements in a prominent location (must meet service container labeling requirements).

If, in your judgment, a bait box in use does not meet these eight criteria, it is not "tamper resistant" and, therefore, is in violation of *FAC § 12973*, "Use in Conflict with the Label." *ENF 83-095 Tamper Proof Bait Boxes*.

Bait Boxes -- Urban Areas

Agricultural pest control businesses have questioned the perceived discrepancy between standardized label statements such as, "Baits should be placed in areas inaccessible to children, pets, wildlife and domestic animals or in tamper-resistant bait boxes" and other instructions on the label that describe hand-broadcast applications.

The majority of labels allow hand-broadcast applications, but not the scattering of baits in areas accessible to children, pets, nontarget wildlife, or domestic animals. Areas accessible to the designated groups require tamper-resistant bait boxes. Different application sites require different methods. Each application site requires individual evaluation and mitigation of known hazards prior to choosing the application method.

Accessibility to young children represents the most important factor in evaluating application sites. Tamper-resistant bait boxes are the only acceptable treatment method when young children are present in public or private parks or recreation areas. Using natural or man-made barriers at the application site to exclude young children provides sufficient mitigation.

When estimating hazards, consideration is given to the feeding behavior of wild or domestic animals. Some rodenticide labels require removal of bait prior to livestock grazing. In areas where bait applications may be hazardous to endangered species, the applicator should work closely with the commissioner and the California Department of Fish and Game to mitigate those hazards.

ENF 97-044 Rodent Control and Use of Bait Boxes in Urban Areas.

Bait Station Labeling

Bait station labeling in nonstructural settings is regulated by the label (*FAC § 12973*) and the U.S.EPA criteria for tamper-resistant bait stations. When the label of the pesticide being used requires the use of a tamper-resistant bait station, agricultural pest control operators are required to label bait stations with the name and address of the responsible company, the identity of the pesticide contained, and the signal word from the label (service container labeling). If a bait station is used by homeowners or growers on their own property, no labeling is required. *ENF 98-011 Placement of Rodenticide Blocks and Tamper Resistant Bait Station Labeling.*

Bait Stations Structural

The *B&PC § 1983(i)* states, "When a covered or uncovered bait station is used for any pesticide, the bait station shall be adequately marked with the signal word or symbols required on the original pesticide label, the generic name of the pesticide, and the name, address, and telephone number of the structural pest control company. A building which is vacated, posted, locked and in the care, custody and control of the registered company shall be considered the bait station." Any device that is designed to dispense pesticidal baits while unattended is a bait station. Since this requirement is contained in the Structural Pest Control Act, it applies only to persons operating within the limits of their Structural Pest Control

Business license. It is the responsibility of the Structural Pest Control Operator to ensure that the bait stations are labeled.

The size of the letters to be used is not addressed in the regulations; however, they should be large enough to "adequately mark" the device. The purpose of the regulation is to provide a warning to persons who may come in contact with the station and therefore the information should be of a size, and located such that they can see the pesticide name and signal word without picking up the device. The name, address, and telephone number of the operator could be displayed on the bottom of the station if the device is too small to display the information on the top. If desired, the required labeling can be displayed on a card attached to the device. *ENF 98-011 Placement of Rodenticide Blocks and Tamper Resistant Bait Station Labeling.*

Chemigation (Also see Sprinkler Applications below)

Pesticides can be applied through irrigation systems only when labeling gives specific directions for chemigation application.

Crack and Crevice Treatment

Crack and crevice treatment is the application of small amounts of insecticide into cracks and crevices in which insects hide or through which they may enter the building. Examples are openings occurring at expansion joints, between different elements of construction, and between equipment and floors.

If emulsifiable or oil-base sprays (including nonpressurized ready-to-use products) are used, equipment must be capable of delivering a pin stream of insecticide. If a pressurized spray is used, an injection or insertion tube must be used. If a dust is used, a bulbous duster or other suitable equipment capable of applying insecticide directly into cracks and crevices must be used. *ENF 78-060 Pesticide Application in Food Handling Establishment.*

Deodorizers

The use of Oil of Wintergreen to mask or deodorize pesticide sprays does not constitute a pesticide (including spray adjuvant) claim under California law. Oil of

Wintergreen is exempt from residue tolerance on growing crops when used as an inert or occasionally as an active ingredient in pesticide products as an attractant.

The only requirement which may apply to the use of such nonpesticide materials is *FAC § 11791* which prohibits any pest control operator from: (1) making any false or fraudulent claim or misrepresenting the effects of a material or method to be applied; or (2) applying any worthless or improper material. *ENF 83-088 Oil of Wintergreen.*

Diluents

DPR does not register diluents in the absence of any spray adjuvant claims. The pesticide product label governs what and how much material may be used as a diluent.

Some pesticides have labeling that allows diesel fuel, No. 1 and No. 2 fuel oils, kerosene, and other oils to be used as diluents. *3CCR § 6895* pertains only to weed oils, as defined in *3CCR § 6000*. The oils described above do not fall within this definition. The specific label directions regarding the use of oils as diluents must be explicitly followed. *ENF 95-026 Oils Used as Diluents.*

If the label specifies a substance as the product's diluent, the use of any other substance as a diluent is considered a use in conflict with the label. In instances where no diluent is specified, water must be used. *ENF 84-047 Information on the Use of Vegetable Oils in California; ENF 95-26 Oils Used as Diluents.*

Dual-Use Pesticides

Pesticides that have labels which allow agricultural uses and nonagricultural uses are called dual-use pesticides. These products can only be sold to end-users by licenced pesticide dealers regardless of the intended use. *ENF 90-101 Dealer's License Requirement for the sale of Dual Labeled Pesticides.*

Strychnine, when packaged with a dual-use label, is a California restricted material. Although other dual-use pesticides can be purchased legally by non-permit holders, the dealer only has to document the purchaser's name and address and that the pesticide will not be used for an agricultural use, this product can only be sold to a

purchaser with a valid permit. A non-agricultural permit could be issued to a homeowner who wished to use this product. *ENF 97-065 Dual Use and Restricted Material Status of Cooke Gopher Mix and Other Strychnine Products.*

Fallow Land

Fallow land is agricultural acreage that is temporarily out of production. Acreage that is out of production for up to one year should be considered fallow unless pesticide labeling has specified otherwise. See also preplant and non-crop. *ENF 95-012 100% Pesticide Use Reporting: Fresh Market and Processed Commodities.*

Feeding Restrictions

Label states “do not use carrot tops for food or feed.” The grower must not market the carrots with the tops attached. Carrots and their tops are considered “food” regardless of whether people eat the tops or not. When produce is offered for sale in the grocery store, we have to assume that someone may eat any portion of that which they bring home.

A label statement might read, "do not use treated foliage for feed or forage," "treated fields are not to be grazed and crop residues and cuttings are not to be fed to livestock or baled for such use," prohibiting the use of crop residues (straw, trash, screenings, stalks and pumice) for livestock feed.

Many growers are unaware of these restrictions because they utilize the services of a commercial pest control operator to apply the pesticide and do not have an opportunity to read the label restriction. Therefore, a pest control adviser's written recommendation must include any applicable label restrictions on use or disposition of crop or crop by-products and a copy must be provided to the grower. The grower is then responsible for assuring that the label restriction statements are observed.

The agricultural pest control adviser has fulfilled his responsibility when he includes the restrictive label statements in the written recommendation and provides the grower with a copy. The grower is then responsible for assuring that the restrictive label statements are followed. If the grower does not observe the restrictive label

statements in the pesticide labeling, he/she is in violation of *FAC § 12973*. If the restrictive label statement is on a restricted material, *FAC § 14011* may be cited.

Growers intending to feed crop residues or by-products to livestock should consult their pest control adviser or pesticide dealer to select pesticides that do not have restrictive label statements. *ENF 80-096 Feeding Restrictions on Pesticide Labels; ENF 76-045 Feeding Restrictions on Pesticide Labels; ENF 78-029 Feeding Restrictions on Pesticide Labels; ENF 78-031 Feeding Restrictions on Pesticide Labels; Label Interpretation 95-003 Thiodan 3EC Insecticide/Carrots with Tops Attached*.

Food Areas

Food areas include receiving, serving, storage (dry, cold, frozen, raw), packaging (canning, bottling, wrapping, boxing), preparing (cleaning, slicing, cooking, grinding), edible waste storage, and enclosed processing systems (mills, dairies, edible oils, syrups). When pesticides are registered for use in these areas, labels will specify dilution rates, appropriate equipment, type of application, and specific precautions to be taken.

In some cases, materials can be used in serving areas, such as dining rooms, but not in areas where the food is processed, or vice versa. Also, the type of treatment may be limited to only crack and crevice or spot treatment within these specific areas. *ENF 78-060 Pesticide Application in Food Handling Establishment*.

Food Handling Establishment

A food handling establishment is a place other than a private residence, in which food is held, processed, prepared, or served. *ENF 78-060 Pesticide Application in Food Handling Establishment*.

Forestry Uses

Forestry uses include site preparation for tree planting, conifer release brush control projects, and stump treatments in forestry management. However, brush control and stump treatment for clearing are not considered as “forestry” uses if the purpose is to increase forage, even though trees are on the site.

General Treatment

“General treatment” is a structural term indicating an application to broad expanses of surfaces such as walls, floors, and ceilings, or as an outside treatment. *ENF 78-060 Pesticide Application in Food Handling Establishment.*

Greenhouse Use

Whether a specific pesticide may be used in a greenhouse or other enclosed plant-growing area depends upon the application directions which appear in the labeling. A greenhouse is defined as a structure or space, of sufficient size to permit entry, that is enclosed with a nonporous covering and used in the commercial or research production of an agricultural plant commodity. A structure constructed of porous cloth or other porous material is not considered a greenhouse. If a greenhouse has sides or significant portions of the structure removed during the application and the restricted entry interval (REI), it is not considered a greenhouse. Simply opening doors or windows does not alter the structural status as a greenhouse. *ENF 97-076 Questions Regarding Implementation of the Amended California Worker Safety Program Questions 7-9.*

The nature of pesticide label instructions permits the grouping of pesticide labels into two groups. Products which may be used in greenhouses and enclosed plant-growing areas include the following:

Labels which are explicit and bear adequate application directions and other precautionary labeling stating “for greenhouse use.”

Labels which bear directions for use on the commodity to be treated, and have dilution and dosage rate instructions and other precautionary statements which are consistent with the use in a greenhouse. This means directions

stated in terms of pots, planting beds, square feet, and similar instructions. Occasionally, greenhouse crops may be grown in large greenhouses (one-half acre or larger). Pesticide labels used in these types of situations could indicate application rates in “per acre” units. All other label requirements would have to be consistent with use in a greenhouse setting.

Products which may not be used in greenhouses:

Labels which bear an explicit prohibition against use of the pesticide in greenhouses or enclosed structures (not including residential structures).

Labels which bear directions for use on the commodity to be treated and bear dilution or dosage rate instructions and accompanying precautionary statements which are not consistent with greenhouse use. This means statements such as “apply by aircraft only” or other directions inconsistent with use in an enclosed structure.

While we recognize that the use of pesticides in greenhouses may involve broad interpretations of some labels, special attention should be given to the hazards of illegal or unnecessary pesticide residues and hazards to the applicator, picker, transplanter, disbudder, and others who may work in, or come in contact with, the application site.

Special attention should be given to the amount or type of protective clothing worn by the applicator beyond that normally associated with open field applications of the same pesticide. *ENF 94-035 Letter to Scott Nicholson;*
ENF 76-057 Interpretation of Pesticide Labels for Greenhouse Use;
ENF 78-065 Interpretation of Pesticide Labels for Greenhouse Use.

Greenhouse Use of Electrostatic Sprayers

The use of electrostatic sprayers in greenhouses is allowed when the application complies with all label requirements, particularly minimum dilution statements. *Information Request 92-004 Low Volume Applications in Greenhouses.*

Greenhouse Use of Foggers

If the label prohibits use in low or ultra low applications, or has use directions for foliar applications, or has any other label direction that cannot be complied with, then the pesticide cannot be used in a thermal fogger. A pesticide labeled for use as a space spray may only be used in a thermal fogger if the greenhouse is empty of plants.

The rate of application for a pesticide may be adjusted for use with a thermal fogger under the following conditions:

- The label does not prohibit this method of application.
- All label directions and precautions must be complied with, including dilution rates.
- The pesticide has the site or crop listed on the label.
- There is an adequate method to determine the rate adjustment.

ENF 89-062 Thermal Foggers - Greenhouse Use.

Greenhouse Grown Food Crops

Since degradation of pesticides in enclosed areas may vary widely, use on food crops grown in greenhouses requires specific label directions for that use. The label must indicate that the particular food crop grown in a greenhouse or enclosed area may be treated with the pesticide. Preharvest and reentry label statements must be followed. *ENF 94-035 Letter to Scott Nicholson.*

Greenhouse Grown Vegetable Transplants

Transplant operations grow food crops that are eventually grown and harvested outdoors rather than grown to harvest in the greenhouse. Food crop transplants should not be considered as food crops for the purpose of the Greenhouse-grown Food Crops policy, the vegetable transplants represent the “harvested crop” of the greenhouse operation. *ENF 94-35 Letter to Scott Nicholson.*

Harvest Date

Means the day a crop is removed from its site of growth, as from a tree, bush or vine, or cut as in the case of alfalfa. "Removed from the site of growth" does not mean when the crop is removed from the field or when the crop is threshed or baled after field drying. This is a long-standing policy which provides a consistent definition of "harvest" applicable to all crops.

Preharvest intervals are intended to provide a period between the application of a pesticide and harvest so the crop will meet the established pesticide residue tolerance.

Home Use

Directions for use on a pesticide label given on a "per acre" basis would not be appropriate for home use. Home-use pesticides have directions to use the product at a rate of so much material "per 1,000 square feet," or amount of material per gallon, pint, etc., and carry special precautions to protect children, pets, etc. Occasionally, certain pesticide labels that are intended for home use may show greater units of area for dilution rates. These labels must indicate by site description or use directions that they are consistent with home use. Pesticides without home-use direction may not legally be used around homes by a householder.

Non-Bearing Crop Uses

Pesticide labels may specify that the product can only be applied to "non-bearing" crops. Such labels may designate the conditions, restrictions and time intervals that provide for application of a pesticide to a non-bearing food and feed crop. In the absence of labeling directions, perennial crops are considered non-bearing only if a harvestable raw agricultural commodity is not produced for 12 months from the date of application. Once a perennial crop has produced a harvestable commodity, it is considered bearing from that point on.

Dormant season applications to plantings which have produced a harvestable crop or are expected to produce a harvestable crop during the next growing season, are considered bearing. Crops which have sustained freeze or drought damage and are

not expected to produce a harvestable crop during the next growing season are also considered to be bearing. Perennial nursery stock would normally be considered non-bearing. These guidelines are consistent with EPA's pesticide assessment guidelines for hazard evaluation and registration.

Non-crop Land

Areas which will not in the foreseeable future be used to grow food, feed, or fiber crops, or to pasture animals. Examples of non-crop land include railroad beds, lumberyards, highway shoulders, etc. This could include areas in a residential setting. Driveways, roadsides, vacant lots, and weed control around a ranchette are examples. See also fallow and preplant. *ENF 82-013 Paraquat - Pre-plant use; ENF 95-012 100% Pesticide Use Reporting: Fresh Market and Processed Commodities.*

To determine if the pesticide can legally be applied to a site, the label directions for dosage, dilution, volume, and particularly method (air, ground, soil incorporation) of the application must also be evaluated. In many cases, the rates will be gallons or pounds per acre, not ounces per 1,000 square feet or the label will not have directions for use as a spot treatment. In addition, non-crop herbicide labels may contain precautions concerning application in proximity to desirable plants. *ENF 86-052 Residential Non-crop Areas; ENF 98-029 Label Interpretation for DowElanco Transline® Specialty Herbicide.*

Non-food Areas

Include garbage rooms, laboratories, floor drains (to sewers), entries and vestibules, offices, locker rooms, machine rooms, boiler rooms, garages, mop closets, and storage (after canning and bottling). When pesticides are registered for use in these areas, labels will specify dilution directions and type of application, such as general treatment, spot treatment and crack and crevice. *ENF 78-060 Pesticide Application in Food Handling Establishment.*

Ornamental

Ornamentals are plants grown for aesthetic purposes. The term includes landscape and indoor plantings and nursery stock of non-food plants produced for landscape or ornamentation purposes. This term does not include food plants even if grown for ornamental or research purposes. *ENF 97-023 Label Interpretation for Site/Marathon 1G.*

Pasture

Pasture is land on which the foliage is grazed by animal stock, and on which agricultural practices are performed on an annual or more frequent basis. Any fence encompassing a pasture is included as part of the pasture. “Agricultural practices” include, but are not limited to, cultivation, seeding, fertilization, irrigation, and pesticide application.

Physically Present

The “physically present” language on a pesticide label requires a certified applicator to provide “direct supervision” and to be “physically present” when noncertified persons are involved in applying, mixing, and loading these pesticides and when repairing and cleaning the application equipment. The “physically present” statement means the certified applicator must be in-line of sight to observe that noncertified persons are following the label directions, to provide guidance if the label is unclear, and to affect changes in procedures if they are not being adhered to or unusual situations occur.

For example, if the only certified applicator at the use site is a journeyman aircraft pilot who is applying the pesticide, then the ground crew that loads and mixes the pesticide shall not load and mix until the pilot is physically present at the load and mix site. *ENF 93-014 Certified Applicator Requirement for Methomyl Labels that Have the “Physically Present” Statement on the Label.*

Plant Back Restrictions

The basis for the plant back restrictions are both phytotoxicity problems and residues in crops for which no tolerance exists. Pesticide label plant back restrictions can be classified as either informational or directional. An informational plant back statement is one that provides facts or information about the pesticide. An applicator is responsible for damage or loss that results from a decision to ignore an informational plant back statement but is not in violation of *FAC § 12973*. A directional plant back statement is one that addresses how a pesticide must be used. If an applicator ignores a directional plant back statement, that application is in conflict with labeling and in violation of *FAC § 12973*.

Label Interpretation 95-001 on Lorox Plant Back Restrictions.

Plant back statements are an important consideration in areas where crops are rotated and the same parcel of land may be leased and treated by a succession of growers. If a grower does not observe a directional plant back statement which results in phytotoxic damage to that grower's property, the commissioner may exercise enforcement discretion. If a grower does not observe a directional plant back statement which results in adverse effects to other people, the commissioner should consider enforcement action. Adverse effects would include illegal residues on commodities produced and sold by that grower, and illegal residues in or damage to crops produced by subsequent growers who were unaware of the earlier applications. *ENF 86-022 Plant back Restrictions (Contains many examples of label plant back statements); ENF 96-019 Policy Change Concerning Plant Back Statements on Pesticide Labels.*

Precautionary Statements

The statement, "Keep children and domestic animals out of treated areas until this material has been washed into the soil" does not prohibit the use of the product along roadways and similar areas even though access by the public is not controlled. This statement is intended to apply to products for use on home lawns, parks, and in similar areas where children or pets are likely to play. Its purpose was to avoid repeated or prolonged exposure under those circumstances.

Preplant

Preplant applications are pesticide applications that occur just prior to planting. These applications are directly related to the growth and development of the subsequent crop. Examples of preplant applications are fumigation prior to strawberry planting, and preplant herbicide or nematicide treatments.

ENF 82-013 Paraquat - Pre-plant Use.

Rangeland

Rangeland is land on which the foliage is grazed by animal stock, but on which agricultural practices are not performed on a annual or more frequent basis. (See Pasture).

Season

“Season” means the growing time period from planting until harvest for a particular crop, but is not more than one year.

Information Request 92-019 Mesurol 75% WP - Seasonal Use Restrictions;

Information Request 92-015 Hazardous Communications - Forests.

Soil Incorporation

Pesticide labels may contain directions for incorporation of soil-applied pesticides. Frequently, these directions will indicate a specific method, such as mechanical or sprinkler. If a label indicates a specific incorporation method, it is not permissible to use any other method. For example, if the label requires mechanical incorporation, incorporation by sprinkler would be in conflict with the label.

ENF 88-081 Letter to Don Tompkins, Lake County Agricultural Commissioner.

Spot Treatment

In the institutional setting, this means an application limited to areas on which insects are likely to occur, but which will not be in contact with food or utensils and will not ordinarily be contacted by workers. These areas may occur on floors, walks, and bases or undersides of equipment. For this purpose, a "spot" will not exceed two square feet. In the outdoor setting, a spot treatment would be an

application where small irregular areas are treated, usually specific areas of pest infestation within a more general area. *ENF 78-060 Pesticide Application in Food Handling Establishment.*

Sprinkler Applications

No pesticide may be applied by sprinkler irrigation systems unless “sprinkler” or “sprinkler irrigation system,” or a similar statement, is specified in the pesticide labeling. Most sprinkler systems are not properly engineered for pesticide application and would require modification in order to provide proper coverage and prevent contamination of nontarget areas. Most pesticides are formulated for application by methods other than sprinklers and may require levels of agitation which are difficult or impossible to maintain during application by sprinkler systems.

Any sprinkler system used for pesticide application must be equipped with double-check valves or other devices for prevention of back siphoning into the water source. Excess irrigation water treated with pesticides must not be allowed to contaminate any water supply, and runoff to adjacent properties must be prevented. Therefore, all such irrigation water must be restricted to the application site. *ENF 77-066 Use of Sprinkler Irrigation Systems for Application of Pesticides.*

Site Interpretations

There are some cases where the commodity and site listed on the label cannot be considered exclusive. When the list is preceded by “such as” or “including,” the product can legally be used on other species covered by the general term. For example, if the label states “deciduous fruit orchards such as apples, peaches, and pears,” the use of the product in deciduous fruit orchards cannot be considered use in conflict with the label. Some labels, particularly rodenticides, may not indicate a specific site and any interpretation of application sites could be quite broad.

Conversely, if the label statement is structured to indicate that the list is exclusive, i.e., “deciduous orchards - apples and pears,” then only those commodities or sites can be treated. *ENF 81-005 Enforcement Actions Based Upon Pesticide Labeling.*

ENF 97-061 Chipco Temik 10G Site Interpretation for Nursery Plantings.

Surfactants

There are various label statements pertaining to the use of surfactants with pesticides. Directions for use on the pesticide label may specify a particular surfactant at a specified rate. Label statements may include, "Add spreader (non-ionic) at specified rate" or "spreader is recommended, but a similar and suitable non-ionic surfactant may be substituted." These labels may be interpreted to mean that other spreaders may be used, however, only at the indicated rate. Other label statements may include a prohibitive statement, i.e., "Do not use with surfactant other than..." In this case, the pesticide must be applied with that particular surfactant. All surfactants must be registered as pesticides in California.

ENF 83-084 Diquat/Surfactant Label Interpretation.

Tank Mixes of Pesticides

Pesticide products may be combined for application when:

- None of the products' labels prohibit such combination;
- The commodity or site is included on each label;
- The dosage rate for each product is not exceeded; and
- The dilution rate on each label is not decreased.
- Pesticide product combinations may affect efficacy, human or environmental hazards, phytotoxicity, residue remaining at harvest, and the choice of application equipment.

The person recommending the use of pesticide product combinations must accept responsibility for any problems that develop. The pesticide registrants may not accept responsibility since they did not include the combination in the labeling of their products.

Fertilizer

Liquid fertilizers may be tank-mixed with pesticides as long as the tank mix is not prohibited by the label and the required diluent is used at the required volume. See also "Conflict with Labeling Exemptions (f)." *ENF 88-069 Letter to Mr. Richard Nutter, Monterey County Agricultural Commissioner on Label Interpretations and Use with Fertilizers.*

Vegetable Oils

Applicators may use vegetable oils with a pesticide in an attempt to increase the efficiency of their operations as spray adjuvants and as diluents in the following situations:

Spray Adjuvants: There are vegetable oil products registered for use as spray adjuvants. These products may be used according to their label directions with pesticides that do not, by their own labeling, prohibit such use. This use is, in effect, a tank mix of two or more registered products. Vegetable oil products which are not registered may not be used as spray adjuvants. Such use would be a violation of *FAC § 12995*.

Diluents

Oil may be used as a diluent:

- If the pesticide product label has directions for dilution with oil.
 - If the label specifies a substance as the product's diluent, the use of any other substance as a diluent is considered a use in conflict with the label. In instances where no diluent is specified, water must be used. If the label requires use of the product undiluted, then no diluent may be added.
- ENF 84-047 Information on the Use of Vegetable Oils in California;*
ENF 95-026 Oils Used as Diluents.

Vikane, Mattresses and Nylofume Bags

The Vikane® label states, “Remove mattresses (except waterbeds) and pillows completely enveloped in waterproof covers or remove covers.” There are three types of covers:

- A factory-designed permanent waterproof cover that envelopes the mattress or pillow to prevent moisture intrusion into inner materials;
- A plastic factory shipping cover; and
- A waterproof or plastic cover installed by the owner after purchase.

All mattresses encased in permanent waterproof coverings must be removed from the structure prior to the introduction of the fumigant, including infant mattresses.

Detachable waterproof covers may be removed from the mattress or pillow in lieu of removing the object from the structure. Box springs are considered mattresses for the purposes of this determination.

The Vikane® label also states, "Food, feed, drugs, and medicinals (including those in refrigerators and freezers) not in plastic, glass or metal bottles, cans or jars with the original manufacturer's seal intact, need to be removed from the fumigation site, or double bagged in Nylofume® bags, which are available from distributors of Vikane® fumigant." The label does not allow for use of any other type of bag. Applicators not using Nylofume® bags during Vikane® fumigations are in violation of the label. *ENF 97-077 DowElanco Vikane® Label Requirements Regarding Mattresses and Pillows Enveloped in Waterproof Covers and the Use of Nylofume® Bags.*

Waterfowl in Alfalfa

The application of certain pesticides, particularly in granular form, have been implicated in the poisonings of waterfowl feeding in the treatment area.

3CCR § 6474(*carbofuran*) uses the phrase "where repeated feeding of waterfowl is known to occur." Coots normally do not frequent alfalfa fields where the height of the alfalfa is greater than six inches. Geese and widgeon, on the other hand, do frequent alfalfa fields regardless of the height of alfalfa.

CDFG officials can be helpful in advising commissioners concerning the presence of grazing waterfowl in the immediate locality and forecasting the movement of such waterfowl from adjacent areas. *ENF 75-008 Furadan 4 Flowable; ENF 75-017 Furadan - Coots.*

Wood Intended for Cooking

U.S. EPA has indicated that the use of certain fumigants on wood intended for cooking and heating purposes is a non-food use. Phosphide and bromide residues are not expected in food cooked with treated wood. It is not a violation of the label to use methyl bromide and aluminum or magnesium phosphide fumigants on such wood if the products are labeled for use on wood and wood products. It is a violation of state law and the label to use other products on wood intended for cooking. *ENF 88-010 Use of Pesticides on Wood Intended for Cooking.*

Worker Protection Standard

All pesticides labeled for use in agricultural production sites are required to comply with Worker Protection Standard (WPS) labeling requirements which include personal protective equipment (PPE), restricted entry intervals (REI), and other worker safety requirements. Generally, these requirements are located in a distinct section of the label and specify that they apply to agricultural production operations. When a dual-use pesticide is being used in a non-agricultural production site, the WPS requirements do not apply. If the rest of the label is silent regarding PPE, REI, or other safety issues, then no label requirement applies. *ENF 97-054 Goal 2XL - Restricted Entry Interval for Non-crop Special Local Need.*

SUPPLEMENTAL LABELING

FIFRA Section 24c Special Local Needs

Additional Uses

(1) A state may provide registration for additional uses of federally registered pesticides formulated for distribution and use within that state to meet special local needs in accordance with the purposes of this Act and if registration for such use has not previously been denied, disapproved, or canceled by the Administrator. Such registration shall be deemed registration under section 3 for all purposes of this Act, but shall authorize distribution and use only within such state.

Special local needs (SLN) registrations are supplemental label instructions for additional uses authorized by DPR. DPR issues two types of registration under Section 24(c) of FIFRA: (1) Regular first-party special local needs; and (2) third-party special local needs.

First-Party Special Local Needs

These registrations are issued to pesticide manufacturers for either supplementary labeling and product bulletins, or for complete product labels. Such labeling issued under 24(c) can be distinguished by the “EPA SLN NO.” on the label in addition to the regular registration number. These registrations must meet a special local need and may not be issued if:

- C There is no applicable residue tolerance established by U.S. EPA.
- C That specific use of the pesticide has been canceled, suspended or denied by U.S. EPA.
- C The product contains a brand new active ingredient not yet registered by U.S. EPA.

SLN registrations issued for substantial new use patterns are issued for the full five-year period provided under FIFRA. SLN registrations issued for minor labeling changes that would normally not require extensive data are issued for two years to allow amendment of the manufacturer's U.S. EPA-approved label.

Third-Party Special Local Need Registrations

These registrations are issued to someone other than the manufacturer and are in the form of a notice signed by the Chief of the Pesticide Registration Branch of DPR. These registrations may be applied for through the agricultural commissioner using a Request for Special Local Need Registration *PR-REG 004* and U.S. EPA form 8570-25.

Third-party SLN registrations are issued only when the manufacturer of the product is not willing to apply for a regular SLN. They are subject to the same limitations regarding residue tolerance, cancellation, etc., as a regular SLN registration. In addition, these registrations are not normally issued without the acquiescence of the manufacturer.

Like a product bulletin, these registrations are for a specific product and must be in possession of the user at the time of application. The third-party SLN registration constitutes the directions for the registered use; therefore, it is essential that the user have the same access to the directions for use and required precautions as when using the pesticide for a normally registered use.

Information Regarding Special Local Need Registrations

Copies of third-party SLN registrations are sent to all counties included in the registration. In addition, a monthly summary of all SLN registrations issued is sent to all counties. This report lists each SLN registration issued by an SLN number together with the following information:

- C Product name.
- C Registrant (manufacturer or other requester in the case of a third-party SLN).
- C Area (counties in which the registration is valid).
- C Site (the crop or site on which registered).
- C Variance (a brief description of the change from the currently registered label).

ENF 79-042 Special Local Need Registrations and Emergency Exemptions.

If the material is supplied by a certified applicator or a person under their direct supervision, the authorization is completed by utilizing the signature blocks. If the material is applied by a private applicator, a restricted material permit is required.
ENF 81-011 Authorization Statement on Third-party 24(c) Registration Labels.

Material purchased for use under an SLN may continue to be applied pursuant to that use, after the SLN is inactivated or the product has been deleted from an active SLN, only until that specific amount of stock has been exhausted. Any material purchased after the inactivation date cannot be used pursuant to the SLN. If uses are not in compliance with the parameters of the SLN, then a use in conflict with the registered labeling has occurred. However, any state or U.S. EPA suspension action would supersede this policy. *ENF 90-085 Inactivated Special Local Need Labeling; ENF 92-028 Inactivated Special Local Need Labeling and Inactivation of Products on Special Local Need Labeling.*

Section 18 -- Emergency Exemption Registration

FIFRA Section 18 Exemption of Federal and State Agencies:

The Administrator may, at his/her discretion, exempt any federal or State agency from any provision of this Act if he/she determines that emergency conditions exist which require such exemption. The administrator, in determining whether or not such emergency conditions exist, shall consult with the Secretary of Agriculture and the Governor of any state concerned if they request such determination.

Emergency Exemptions

Section 18 of FIFRA provides that the administrator of U.S. EPA may exempt a federal or state agency from any provision of the Act if he/she determines that an emergency condition exists. U.S. EPA has applied this section to exempt states from the misuse provisions of FIFRA under particular emergency conditions.

Section 18 Residue Action Levels

Under an emergency exemption, U.S. EPA may establish a pesticide residue action level to allow harvesting of produce treated under the exemption. For this reason, emergency exemptions are usually reserved for those uses without existing tolerances. Uses with existing tolerances can be issued under Section 24(c).

Section 18 Types

The regulations adopted for Section 18 provide for three types of emergency exemptions: a specific exemption, a public health or quarantine exemption, and a crisis exemption.

Specific Exemption

Application for a specific exemption may be made by the county agricultural commissioner using the Request for Emergency Exemption. The request should include the name and telephone number of a suitable technical expert in the

particular problem involved. This may be a farm adviser or grower group representative.

When the application is received by DPR, it is evaluated for the nature and extent of the emergency and the safety and efficacy of the proposed material. If the information is adequate, a real emergency exists and there are no feasible alternatives to an exemption, DPR will prepare an application for an emergency exemption to U.S. EPA. This application must include the following information:

- C The nature, scope, and frequency of the pest problem.
- C The currently registered materials or available control methods and a description of why each cannot be used.
- C The proposed program including the material, dosage, etc., as well as precaution, limitations, and any potential hazard.
- C Economic effects including projected crop losses, both with and without the proposed exemption.
- C Supporting data including both efficacy and residue data to support the use of the proposed material.

It is DPR's policy that all materials used under an emergency exemption program will be applied using the best available pest control methods and technology. These may include pest population monitoring, treatment thresholds, methods of application designed to reduce environmental contamination, and limitations to mitigate effects on nontarget organisms. When such methods and technologies are available and feasible, their use will be required for application under the exemption.

If, after evaluation, U.S. EPA grants an emergency exemption, DPR issues an authorization for use. This authorization serves as supplementary labeling and must be in the possession of the user at the time the pesticide is applied.

Crisis Exemption

Under the crisis provisions of Section 18, DPR may authorize the use of a pesticide under emergency conditions, without obtaining U.S. EPA approval, if the nature of the emergency is such that applications must be made before a specific exemption could be granted. Under the crisis exemption, DPR must notify U.S. EPA of the applications authorized within 36 hours and within ten days submit an application

for a specific exemption and appropriate residue action level. Since a residue action level cannot be established by DPR, treated crops may not be harvested until one is established. The lack of such a residue action level generally prohibits the use of a crisis exemption for food crops in proximity to harvest.

A crisis exemption , when issued, is handled in the same manner as a specific exemption. An authorization is issued which must be in the possession of the user at the time of application.

Permit Requirements

Any pesticide used under an emergency exemption is automatically a restricted material and requires a restricted material permit. *ENF 81-007 Permit Requirements Section 24(c) and Section 18.*

Section 18 -- Conflict with Directions

Section 18s are exemptions from labeling and, therefore, are not allowed the deviations from label requirements granted in *3CCR § 6000 (Conflict with Labeling)*. Any deviation from a Section 18 would be considered a violation of permit conditions under *FAC § 12973*. A pesticide must be used in compliance with all Section 18 requirements, including rate, concentration, method, timing and target pest. *ENF 90-083 Use of Section 18 Emergency Exemptions in Conflict with Directions.*

U.S. EPA has given DPR permission to add the following standard language allowing tank-mixing of Section 18 materials:

Tank-mixing with other compatible pesticides, spray adjuvants and fertilizers is allowed as long as all labeling and regulations requirements can be met and tank-mixing is not otherwise prohibited. *ENF 90-093 Tank-mixing Section 18 Emergency Exemptions.*

WORKER SAFETY

HISTORY

In 1974, California adopted comprehensive worker safety regulations designed to protect agricultural pesticide handlers and field workers. That same year, the U.S. Environmental Protection Agency (U.S. EPA) adopted a worker protection standard which dealt only with the protection of field workers.

From 1980 through 1988, California revised its worker safety regulations and expanded the scope to include all pesticide handlers. The revisions clarified and increased requirements for handler training, medical supervision, personal protective equipment, field reentry, and worker reentry intervals. In 1988, U.S. EPA proposed to expand the scope of their worker protection standard to encompass all agricultural employees, including pesticide handlers.

ENF 82-060 AB 1111 Regulation Changes (Worker Safety); ENF 86-117 Summary of Changes Made to the Pesticide Worker Safety Regulations; ENF 88-115 Summary of Changes Made to the Pesticide Worker Safety Regulations.

In January 1992, California amended its worker safety regulations to include hazard communication requirements. The Hazard Communication Regulations were developed to supplement existing worker safety regulations dealing with hazard communication for pesticide handlers and field workers. Incorporation of the regulations ensured that California's worker safety program was equivalent to the 1988 revisions of the Federal Hazard Communication Standard.

ENF 92-064 Hazard Communications Regulations - Trainers Manual.

In August 1992, federal regulations known as the Worker Protection Standard (WPS) were adopted as a result of the 1988 U.S. EPA proposal. At that time, California began working with U.S. EPA to address interpretation issues and determine regulatory equivalency for several elements of California's existing worker safety regulations.

In May 1995, U.S. EPA gave interim approval of California's request for regulatory equivalency contingent upon incorporation of federal WPS requirements in California's worker safety regulations.

Worker safety regulations apply only to employees. Label requirements for pesticide safety and protective equipment apply to all users. Failure by any user, including growers and employers, to use the protective equipment specified by the label is a violation of both State and federal law.

Much of the interpretation in this chapter can be found in Enforcement Letters and Information Requests, as cited below. Each interpretation will have a citation after it.

Resources

The “*Pesticide Safety Information Series*” leaflets are available in English and Spanish. Topics now include:

"A" Series

- PSIS A-1 Safety Requirements for Pesticide Handlers in Agricultural Settings.
- PSIS A-2 Pesticide Storage, Transportation and Disposal in Agricultural Settings.
- PSIS A-3 Engineering Controls in Agricultural Settings.
- PSIS A-4 First Aid and Decontamination in Agricultural Settings.
- PSIS A-5 Respiratory Protection in Agricultural Settings.
- PSIS A-6 Summary of Worker Safety Regulations for the Agricultural Setting.
- PSIS A-7 Laundering of Pesticide Contaminated Clothing Following Exposure to Agricultural Pesticides.
- PSIS A-8 Hazard Communication Information for Employees Handling Pesticides in Agricultural Settings.
- PSIS A-9 Hazard Communication Information for Employers with Employees Working in Agricultural Fields.
- PSIS A-10 Minimum Exposure Pesticides in Agricultural Settings.
- PSIS A-11 Medical Supervision.

"N" Series

- PSIS N-1 Safety Requirements for Pesticide Handlers in Non-crop Settings.
- PSIS N-2 Pesticide Storage, Transportation and Disposal in Non-crop Settings.
- PSIS N-3 Use of Engineering Controls in Non-crop Settings.
- PSIS N-4 First Aid and Decontamination in Non-crop Settings.
- PSIS N-5 Respiratory Protection in Non-crop Settings.
- PSIS N-6 Summary of Worker Safety Regulations for the Non-crop Setting.
- PSIS N-7 Laundering of Pesticide Contaminated Clothing Following Exposure to Non-agricultural Pesticides.
- PSIS N-8 Hazard Communication Requirements for Employees Handling Pesticides in Non-crop Settings [replaces A-8(i)].
- PSIS N-10 Minimum Exposure Pesticides in Non-crop Settings.

DPR has made pesticide information more accessible by putting its worker safety leaflets online. The leaflets can be found in the "Current DPR Publications" section of DPR's Web site (<http://www.cdpr.ca.gov>).

These leaflets are formatted in Adobe Acrobat PDF files and therefore look virtually identical to the hard copies available from DPR or commissioners. An Adobe Acrobat Reader is needed to view these documents on screen or to print them. This program may be downloaded without charge from DPR's Web site.

DPR's "Consumer Fact Sheets," targeted at improving pesticide safety in homes, are also available on DPR's home page. Topics include:

- What Is a Pesticide?
- How to Read a Pesticide Label -- and Why.
- What to Do in a Pesticide Emergency.
- Urban IPM.
- Tips for Handling Pesticides Safely.
- Safety Precautions for Total Release Foggers.
- How to Stop Pests Before They Happen.
- Pesticides and Food.
- Safely Storing and Disposing of Pesticides.
- Using Insect Repellants Safely.
- Things to Know About Pet Grooming and Pesticides.

- U.S. EPA's Citizen's Guide to Pest Control and Pesticide Safety. *WHS 97-004 Pesticide Safety Information Series Leaflets and DPR News Release No. 97-011, Guidelines for Physicians Who Supervise Workers Exposed to Cholinesterase-inhibiting Pesticides*, 3rd edition, 1995, Office of Environmental Health Hazard Assessment, California Environmental Protection Agency.

You can get 10 free copies of the following pamphlet from the Pesticide and Environmental Toxicology Section (PETS), 2151 Berkeley Way, Berkeley, California 94704-1011, or telephone (510) 540-3063:

The Worker Protection Standard for Agricultural Pesticides - How To Comply, What Employers Need To Know, U.S. EPA Prevention, Pesticides and Toxic Substances EPA 735-B-93-001, July 1993.

Accessible

“Accessible” means that “program records” can be easily obtained (i.e., within 48 hours) by employees who handle pesticides 3CCR § 6723. *ENF 92-047 Implementation of Worker Safety Hazard Communication Regulations, Question 8.*

Arid Area Restricted Entry Intervals

Some pesticide labeling requires a different REI for arid areas. Labeling might state, for example, “72 hours outdoor areas where average rainfall is less than 25 inches a year.” You can get information on average annual rainfall for your area from any nearby weather bureau, such as one at a local airport or one affiliated with the National Oceanic and Atmospheric Administration. There is a list of average rainfall by county in *ENF 94-038 Federal Worker Protection Standard Update*.

Assume the Risk

3CCR § 6724 requires an employer to base the training that is given to employees upon the pesticide label. 3CCR § 6738 requires that protective devices be provided to employees to mitigate the exposure hazard shown on the labeling. All pesticide handlers must comply with label protective equipment requirements. To

do otherwise is a violation of both State and federal law. The willingness of the employer to "assume the risk" does not waive the requirements.

Cholinesterase Laboratories

Each year, DPR issues a Worker Health and Safety (WHS) letter that lists the laboratories approved to perform cholinesterase testing for occupational surveillance. Questions about these laboratories should be directed to the Chief of the Environmental Health, County Laboratory Branch, Department of Health Services, at (510) 540-2469. *3CCR § 6728(f)*.

Cholinesterase Testing Methods

Although there is not just one statewide method approved for cholinesterase testing that applies to all hospitals, including emergency rooms, cholinesterase testing laboratories are required to run comparison tests and report cholinesterase levels in a standard format. *3CCR § 6728(c)(1)*. *ENF 89-073 Worker Safety Regulations Question 34*.

Closed System Criteria

DPR's Worker Health and Safety Branch has developed the Director's criteria for closed systems. The Worker Health and Safety Branch lists the nine design and performance criteria, operating requirements, and some questions and answers.

3CCR § 6738(i) allows any person handling pesticides through a closed system to reduce labeling required PPE in specified situations. This provision applies to both liquid and dry pesticides during mixing and loading and application.

See *3CCR § 6746* for required uses of a closed system. *ENF 84-064 Closed System Protective Clothing Policy*.

The Director developed the current criteria to implement the requirement of *3CCR § 6746* and address only liquid pesticides. A manufacturer's certification that their system meets the Worker Protection Standard is acceptable in the absence of Director's criteria for dry pesticides. *WHS 98-001 Application of Closed System Criteria; PSIS A-3 Engineering Controls in Agricultural Settings; ENF 84-065 Closed Systems Manufacturers, Retailers, and Other Interested Parties*.

Closed System Suppliers

The equipment listed in *ENF 91-034 -- Closed System Suppliers* meets the Director's criteria for closed transfer systems. Additional systems may be in use that operators would like to sell commercially. Contact your Senior Pesticide Use Specialist to arrange for a joint evaluation of the system.

Decontamination -- How much water is enough?

The term used in the California code is "sufficient." The federal code is a guideline but not enforceable. U.S. EPA guidelines recommend at least three gallons of water for each handler. The employer must determine how much water is sufficient. Factors to consider include the number of handlers, the type of handling activity, and the amount of water needed to adequately flush eyes after exposure and the frequency of filling containers. *The Worker Protection Standard for Agricultural Pesticides-How to Comply; What Employers Need to Know. U.S. EPA 735-B-93-001; ENF 97-076 Questions Regarding Implementation of the Amended California Worker Safety Program.*

Decontamination -- Training Violation

If an employee is exposed to a pesticide, and not decontaminated, it does not necessarily constitute a training violation. If it can be shown that this aspect of training was not performed, there is a violation of section 3CCR § 6724(b)(7). *ENF 89-073 Worker Safety Regulations, Question 24.*

Employees Laundering Coveralls

Nothing prohibits an employer from contracting with employees to launder their own coveralls; however, the employee must be advised to launder separately and to remove and store contaminated clothing separate from other clothing 3CCR § 6736. *ENF 89-073 Worker Safety Regulations, Question 37.*

Employer or Employee

You can determine if a labor contractor is an employer or an employee by identifying who is paying employee wages and workman's compensation 3CCR § 6000. *ENF 89-073 Worker Safety Regulations, Question 3.*

The deciding factor for determining who is an employee versus employer is compensation. If a person is receiving any kind of compensation for work, services, or activities, he or she is an employee 3CCR § 6000. *ENF 89-073 Worker Safety Regulations, Question 4.*

Enclosed Cab and Cooled Chemical Suit

When a chemical-resistant suit is required by pesticide labeling or regulation, and the temperature exceeds 80E F by day (85E F at night), a cooled chemical suit is not required if the applicator: (1) is working in an enclosed cab; (2) needs to make a minor equipment adjustment for no more than five minutes in a 60-minute period; and (3) wears a chemical-resistant suit while making the equipment adjustments 3CCR § 6738(g)(2). *ENF 89-073 Worker Safety Regulations Question 43.*

Equipment Cleaning and Decontamination

DPR does not approve products for cleaning and decontamination of equipment. Thorough washing with detergent and water for PPE or a product such as Nutra-Sol for application equipment is usually adequate decontamination. The rinse water from application equipment is considered hazardous waste unless it is applied onto the labeled application site. *ENF 89-73 Worker Safety Questions and Answers, Question 128; Information Request No. 91-059 On-site Disposal of Pesticide Rinsate Containing Neutralizing or Cleaning Agents.*

Fumigation Accident Response Plans

The accident response plan requires the employer to anticipate what hazards might develop in an accident or spill and provide written instructions on how employees should respond. This plan must be at the worksite. This requirement was not meant to have growers or applicators develop a comprehensive plan attempting to mitigate all possible scenarios resulting from an accident. However, the plan must

include the availability of information regarding the security of the area where the problem has occurred and whom to contact in the event of a problem. Emergency information should be documented and available, especially the emergency telephone number. Through the Label Improvement Program and new registration standards, general information on spills and leaks is available on the label.

Information Request 90-107 General Fumigation Safe Use Requirements; DPR Reference Manual for Structural Pest Control Enforcement Program.

Fumigation -- Tarp Pullers as Handlers

Tarp pullers (structural and field) are considered handlers because they are part of the application process. The regulations that apply to handlers therefore apply to these employees. *DPR Methyl Bromide Field Fumigation Permit Conditions 12-95.*

Fumigation -- Tree Hole

If the labeling requires PPE to be used in case of a spill or leak, PPE need not be routinely worn during tree hole fumigation. However, a self-contained breathing apparatus (SCBA) must be available to stabilize an emergency situation. Unless specifically required by labeling, a second SCBA is not necessary. The emergency response plan should specify that only the SCBA-equipped person is responsible for correcting leaks and spills and the second worker evacuates the area and does not reenter until the SCBA-equipped person determines it is safe.

WH&S letter to Mike Tanner, Agricultural Commissioner, Merced County, 3-29-95.

Fumigation -- Two Trained People

If two trained people are required by labeling or regulation during a methyl bromide or chloropicrin fumigation, the two persons may be two employers, two employees, or one of each. The second person is required by fumigant labeling and, in the case of employees, by regulation 3CCR § 6784. *ENF 89-073 Worker Safety Questions and Answers, Question 124.*

Handling

The term handling does not include movement or transportation of pesticides in the registrant's original unopened containers. Pesticide dealer employees such as salespersons, warehouse persons, and forklift drivers are covered under Cal-OSHA regulations. However, pesticide dealer employees who transfer pesticides or calibrate equipment in the field fall under the FAC jurisdiction *3CCR § 6700. ENF 89-073 Worker Safety Regulations, Question 16.*

Handling -- Government Personnel

Government personnel handling insecticidal lures or bait traps that have pesticides are required to comply with the applicable worker safety regulations. When insect monitoring traps or non-insecticidal lures are handled, the employer is exempt from the requirements of *3CCR § 6730 (Working Alone)*, *§ 6732 (Change Area)* and *§ 6736 (Coveralls)*. *3CCR § 6700, § 6720(b). ENF 89-073 Worker Safety Questions and Answers, Question 15.*

Hazard Communication -- Display

For grower's employees who handle pesticides, the completed written Hazard Communication Program (PSIS A-8) must be displayed at a central location. For grower's employees who do not handle pesticides, but are working in a treated field, the PSIS A-9 must be displayed at the worksite. If workers gather at a central location prior to transport to the worksite, the PSIS A-9 may be displayed at that central location. Also, if requested, the employer must read the information contained in the document to the employee. "Display" means the employee must have unimpeded access *3CCR 6000(Display)*. *ENF 92-047 Implementation of Worker Safety Hazard Communication Regulations, Question 46.*

Hazard Communication -- Grower Responsibility

The grower is responsible for providing specific information to employees of a labor contractor. The operator of a property must provide, upon request of his or her employee, or an employee of a labor contractor, access to use records, Material Safety Data Sheets (MSDS); PSIS leaflets. *3CCR § 6761(d). ENF 92-047 Implementation of Worker Safety Hazard Communication Regulations, Question 45.*

Hazard Communication -- MSDS Availability

An MSDS may not exist for every pesticide manufactured. It is the responsibility of the pesticide dealer (*Labor Code § 6393*) to provide the purchaser with the appropriate MSDS, if it is available from the registrant. However, *3CCR § 6723* requires the employer to make a written inquiry to the registrant of the pesticide as to the availability of an MSDS within seven days of receiving a request for an MSDS from an employee.

Outlets such as nurseries, lumber stores, and hardware stores that sell pesticides do not need to have MSDS available. These outlets do not need to provide MSDS to purchasers of pesticides that are intended for use by the consumer. Also, MSDS do not need to be provided when a pesticide is incidentally sold to an employer that is in the same form, approximate amount, concentration, and manner as it is sold to consumers (*Labor Code § 6393*). For example, a retailer selling snail bait to maintenance gardeners does not have to distribute an MSDS. However, maintenance gardeners who have employees who handle this pesticide are still required to provide an MSDS on request, if it is available from the registrant. The requirement for the registrant or dealer to provide MSDS is contained in the Labor Code and is the jurisdiction of Cal-OSHA. *3CCR § 6723*.

Regulations are specific. If an employee requests an MSDS, the employer is required to make a written inquiry to the registrant of the pesticide as to the availability of the MSDS.

Upon receiving a request for an MSDS, the employer must provide original information to a requester. A “summarized copy” of an MSDS may not be consistent with the registrant’s printed MSDS for the pesticide. Purchasers of a rodenticide bait do not have to be provided with an MSDS. The commissioner is not required to provide MSDS to homeowners who purchase rodenticide baits. *ENF 92-047 Implementation of Worker Safety Hazard Communication Regulations, Questions 13, 14, 15, 16, 33, and 36.*

Hazard Communication Program

All employers who assign employees to handle pesticides need to keep a written Hazard Communication Program. Employers of people in restaurants, industrial facilities, schools, hospitals, agricultural operations, etc., must post a completed Hazard Communication Program [Pesticide Safety Information Series, A-8]. It must be posted at a location where employees assigned to handle pesticides usually start the workday. If employees do not start their activities at one locale, the employer must maintain one copy of the program at a central location at the workplace and it must be accessible to employees. *3CCR § 6723*. When only antimicrobial agents are handled, and employers have a current Hazard Communication Program and Injury and Illness Prevention Program as required by the Department of Industrial Relations Cal-OSHA regulations, the employer is exempt from complying with *3CCR § 6723*. *3CCR 6720(c)*. *ENF 92-047 Implementation of Worker Safety Hazard Communication Regulations, Question 3*.

Hazard Communication -- Records

Companies that farm in multiple counties may keep records at a centralized location in just one county, but the employer must provide, upon request of an employee, employee representative, or employee's physician, access to any records or documents (within 48 hours) the employer is required to keep concerning hazard communication. Also, employee records and documents must be made available to the commissioner in each county where the company operates. *3CCR § 6723*.

3CCR §§ 6723(b) and 6761(b) require that records are to be maintained at a central location (i.e., place where the business maintains other records such as purchase orders, training records, etc.) accessible to employees. Also, the regulations require that they must be made available to the employee, employee's representative, or employee's physician as soon as possible and not to exceed 48 hours. *3CCR §§ 6723(b), 6761(b) and 6723(d)*. *ENF 92-047 Implementation of Worker Safety Hazard Communication Regulations, Question 22*.

Immediate Family Defined

The federal WPS defines “immediate family” as including only spouse, children, stepchildren, foster children, parents, stepparents, foster parents, brothers and sisters. *3CCR § 6700. ENF 97-076 Worker Protection Standard, Question 11, page 10.*

Notice Of Application

In some situations, notification required by *CCR § 6618* may be fulfilled by posting the information at a central location. In order to fully satisfy the requirement, all workers, employees or contractors who may walk within ¼ mile of the treated field must start their work day at the central location where the notification is posted. *ENF 97-076 Questions Regarding Implementation of the Amended California Worker Safety Program, Question 2 page 5.*

“Likely to enter,” pursuant to property such as golf courses, parks, college campuses, rights-of-way, and school buildings, refers to persons who have access to the property and who may enter it, while a reentry restriction is in effect. For example, persons playing golf, students on campus, students using school hallways, the public who has access to a park are “likely to enter” and, therefore, notification is required. However, if an area, right-of-way, school hallway, is posted or blocked off, entry is unlikely. *3CCR § 6618.*

The property operator should comply with notification requirements when the public is likely to enter a treated area in the following manner:

The property operator is required to give notice to all persons known to be on or are likely to enter a treated area on the date a pesticide application was made, or while the REI is in effect; identity of the pesticide by brand name or common chemical name; and the precautions (e.g., reentry).

The regulations do not specify how persons are to be notified. If so desired, the property operator can give either oral or written (i.e., posting) notification. Posting is required on public property if the reentry interval is 24 hours or greater. *FAC § 12978 and 3CCR § 6618.*

Notice of Application -- Field Posting

Field posting can be used to give notice to employees pursuant to 3CCR § 6618 even when a field is not required to be posted by label or regulation. The posting must be removed before workers are allowed to enter the field. ENF 97-076

Questions Regarding Implementation of the Amended California Worker Safety Program, Question 1, page 5.

Personal Protective Equipment -- Chemical-Resistant Materials

Under the Personal Protective Equipment section on many pesticide labels, you will find a statement such as, “Some materials that are chemical-resistant to this product are listed below. If you want more options, follow the instructions for category G on the EPA chemical resistance category selections chart” (see below):

Personal Protective Equipment -- Chemical Resistant Materials

Category	Barrier Lamin-ate	Butyl Rubber Š14 mils	Nitrile Rubber Š14 mils	Neoprene Rubber Š14 mils	Natural Rubber Š14 mils	Poly-ethylene	PVC Š14 mils	Viton Š14 mils
A	high	high	high	high	high	high	high	high
B	high	high	slight	slight	none	slight	slight	slight
C	high	high	high	high	moderate	moderate	high	high
D	high	high	moderate	moderate	none	none	none	slight
E	high	slight	high	high	slight	none	moderate	high
F	high	high	high	moderate	slight	none	slight	high
G	high	slight	slight	slight	none	none	none	high
H	high	slight	slight	slight	none	none	none	high

High: highly chemical-resistant. Clean or replace PPE at end of each day's work period. Rinse off pesticides at rest breaks.

Moderate: Moderately chemical-resistant. Clean or replace PPE within an hour or two of contact.

Slight: Slightly chemical-resistant. Clean or replace PPE within ten minutes of contact.

None: No chemical-resistance. Do not wear this type of material as PPE when contact is possible.

Personal Protective Equipment -- Coveralls

Some pesticide labels require "coverall worn over short-sleeved shirt and short pants." The phrase "short sleeved shirt and shorts" does not refer to undergarments. There are no requirements addressing the presence or absence of undergarments in laws or regulations. For a list of acceptable PPE to wear when this statement is found on pesticide labeling, see "PPE- Label Statement Interpretation" in this chapter. *Information Request 95-005 Worker Protection Standard Labeling - Undergarments.*

Personal Protective Equipment -- Coveralls and Chemical-Resistant Suit

WPS contains two quite different standards for employer provided body protection. The requirement for coveralls (3CCR § 6736) requires body covering of tightly woven cloth, or equivalent, extending from the neck to wrists to ankles. Specialty fabrics such as uncoated Tyvek®, KleenGuard®, and several others are at least equivalent to cloth in their protective ability. Coveralls made of these materials are fully acceptable for meeting the coverall requirements of 3CCR § 6736. The language referring to chemical-resistant suit, rain suit or waterproof pants and coat (3CCR § 6738(g)) requires body covering that is, in practical effect, chemical proof for the period of use. This protective clothing must cover torso, head, arms and legs. Clothing made of rubber, neoprene, polyethylene or similar materials are required to meet this level of protection. The desire for disposable or limited use clothing that meets this more stringent chemical-resistant requirement caused the Worker Health and Safety Branch to evaluate specialty fabrics that might meet this requirement. So far, four acceptable materials have been found: Tyvek® (spun bonded olefin) laminated to either Saranex® or polyethylene, polypropylene laminated with polyethylene, and Encase® II. Several manufacturers of protective clothing who use these materials have begun identifying their products as being constructed of one of these materials or as meeting the standards of 3CCR §6738(g). DPR does not require a manufacturer to label these products so garments without this labeling may possibly be acceptable for this use. If in doubt, the manufacturer of the coveralls should be able to identify the material used. Because of the greater complexity and hazards involved, requests for evaluation of other materials that might meet this requirement should be referred to the Worker Health and Safety Branch. *WHS 89-006 Clarification of Protective Clothing for Body Protection; ENF 87-002 Use of Disposable Coveralls for Body*

Protection.

Personal Protective Equipment -- Eyewear and Antimicrobials

Employee eye protection is required for all disinfectant pesticide applications even when, for example, the hand-held application equipment is a sponge or mop. Except for those activities described in *3CCR § 6738(b)(1)(C)*, all employees are required to wear eye protection while applying any pesticide. General safety requirements *3CCR § 6720(c)* exempt the employer from the requirements of *3CCR § 6730 (Working Alone)*, *§ 6732 (Change Area)*, and *§ 6746 (Closed Systems)* when antimicrobial agents or pool and spa chemicals are handled. However, *3CCR § 6738(b)(1) (Eye Protection)*, must be complied with when employees apply antimicrobial pesticides. According to *3CCR § 6720(c)*, if an employer is operating under the provisions of Title 8 CCR (Cal OSHA Hazard Communication and Injury and Illness Prevention Program), eye protection is still required, although failure to wear it would be a violation of *8CCR § 3382*.
Information Request 89-003 Eye Protection Antimicrobials .

Personal Protective Equipment -- Eyewear and Closed Systems

Eye protection must be worn when preparing to use closed systems, such as when opening containers and inserting probes. Minimal exposure pesticides require eye protection at all times (*3CCR § 6738*). Protective eyewear is also required when using closed systems that operate under positive pressure. When using a closed system, protective eyewear must be available on site (*3CCR §§ 6738(i) and 6793*). *ENF 84-064 Closed System Protective Clothing Policy.*

Personal Protective Equipment -- Gloves, Disposable

Light-weight disposable gloves are generally not suitable for hand protection while handling pesticides. Even though it may be argued that they meet the regulatory requirement when new, they would have a limited applicability and short use life because of their fragile construction. A few minutes of light-duty use would probably breach the physical and chemical integrity of this type of glove and would not provide a level of protection required by regulation. Any legitimate use would be limited to short-term, single-use situations where little stress is placed on the

gloves and does not result in any permeability by the pesticide. *Information Request Use of Disposable Gloves.*

Personal Protective Equipment - Label Statement Interpretation

Label Statement	Acceptable PPE
Long-sleeved shirt and long pants	Long-sleeved shirt and long pants, or woven or nonwoven coverall, or Plastic- or other barrier-coated coverall, or Rubber or plastic suit
Coverall worn over short-sleeved shirt and short pants	Coverall worn over short-sleeved shirt and short pants, or Coverall worn over long-sleeved shirt and long pants, or Coverall worn over another coverall, or Plastic- or other barrier-coated coverall, or Rubber or plastic suit
Coverall worn over long-sleeved shirt and long pants	Coverall worn over long-sleeved shirt and long pants, or Coverall worn over another coverall, or Plastic- or other barrier-coated coverall, or Rubber or plastic suit
Chemical-resistant apron worn over coverall or over long-sleeved shirt and long pants	Chemical-resistant apron worn over coverall or over long-sleeved shirt and long pants, or Plastic- or other barrier-coated coverall, or Rubber or plastic suit
Chemical-resistant protective suit	Plastic- or other barrier-coated coverall, or Rubber or plastic suit
Waterproof suit or Liquid proof suit	Plastic- or other barrier-coated coverall, or Rubber or plastic suit
Waterproof gloves	Any rubber or plastic gloves sturdy enough to remain intact throughout the task being performed.
Chemical-resistant gloves	Barrier laminate gloves, or See selection codes A-H above (PPE - Chemical Resistant Materials)
Chemical-resistant gloves such as butyl or nitrile	Butyl gloves, or nitrile gloves, or See selection codes A-H above (PPE - Chemical Resistant Materials)

Shoes	Leather, canvas, or fabric shoes, or Chemical-resistant shoes, or Chemical-resistant boots, or Chemical-resistant shoe coverings (booties)
Chemical-resistant footwear	Chemical-resistant shoes, or Chemical-resistant boots, or Chemical-resistant shoe coverings (booties)
Chemical-resistant boots	Chemical-resistant boots
Chemical-resistant hood or wide-brimmed hat	Rubber- or plastic-coated safari-style hat, or Rubber- or plastic-coated firefighter-style hat, or Plastic- or other barrier-coated hood, or Rubber or plastic hood, or Full hood or helmet that is part of some respirators

Personal Protective Equipment Guide, Coveralls, Gloves, and Other Skin Protection. U.S. EPA and Extension Service, U.S.D.A.

Personal Protective Equipment -- Respirators Designations

The National Institute for Occupational Safety and Health (NIOSH) has developed a new set of regulations in *CFR 42*84*, referred to as "Part 84," for certifying non-powered, air-purifying, particulate-filter respirators. These new regulations superseded *CFR 30*11* "Part 11." OSHA allowed selling and shipping Part 11 respirators as NIOSH-certified until June 10, 1998. Part 84 creates three levels of filter efficiency and three categories of resistance to filter efficiency degradation. The three levels of filter efficiency are 95%, 99% and 99.97%. The three categories of resistance to filter degradation are N, R and P.

N for **N**ot resistant to oil;

R for **R**esistant to oil;

P for oil **P**roof.

If no oil particles are present in the work environment, use a filter of any series, N, R, or P. If oil particles are present, use an R or P-series filter. If oil particles are present and the filter is to be used for more than one work shift, use only a P-series

filter. The filter packaging of Part 84 particulate respirators contain certification numbers in the form TC-84A-XXX where XXX is the series and efficiency rating. An example rating is N95 for an N series filter with 95% efficiency, its number will be TC-84A-N95. For more information see (<http://www.cdc.gov/niosh>).
WH&S 98-002 Changes in Pesticide Respirator Designations.

Personal Protective Equipment -- Respirator Employer Responsibility

3CCR § 6738(h)(1) states: “The employer shall assure that employees use approved respiratory protection equipment when pesticide product labeling or regulations require respiratory protection or when respiratory protection is needed to maintain employee exposure below an applicable exposure standard found in *8CCR § 5155*.”

The intent of this section is to regulate respiratory protection for employees required to wear it by labeling or regulation. Therefore, an employer is not required to comply with the cited regulations if the employee chooses to supply and wear a respirator when it is not required by labeling or regulation. When safety equipment is provided by the employer, the employer is responsible for the maintenance (*3CCR § 6738(a)*). *Information Request 89-036 Worker Safety - Respiratory Protection.*

Personal Protective Equipment -- Respirator Inspection

3CCR § 6738(h)(5) states: “The employer shall assure that respirators maintained for stand-by or emergency use are inspected monthly or before use if occasions for possible use are more than one month apart. A record of the most recent inspection shall be maintained on the respirator or its storage container. The intent of *3CCR § 6738(h)(2)* is to inspect a respirator maintained for unanticipated use (stand-by or emergency) monthly, unless the interval between possible occasions of unanticipated use of the respirator are greater than one month apart. Therefore, a respirator maintained for emergency use where pesticide applications occur twice a year would have to be inspected twice (once before each pesticide application).”

A respirator maintained for emergency use where pesticide applications occur once every three weeks would have to be maintained monthly. This requirement applies

only to respirators maintained for unanticipated use. *3CCR § 6738(a)* requires all personal protective equipment which is used routinely to be inspected before each use. *Information Request 90-122 Inspection of Respirators Maintained for Stand-by or Emergency Use.*

Personal Protective Equipment -- Respirator Maintenance

3CCR § 6738(e)(9): Respirator air-purifying elements must be changed according to pesticide labeling directions or the respirator manufacturers recommendation, whichever is more frequent. Generally, the pesticide label does not include a time interval (i.e., service life) for changing the cartridges. The respirator manufacturer's instructions usually do not include a time interval because of all the variables involved in selecting the proper interval. These manufacturers may also be reluctant to include specific instructions because of their liability.

Therefore, DPR adopted regulations to specify that in the absence of any instructions on service life (i.e., time interval), the air-purifying elements must be changed at the end of each day's work period. As an added precaution, DPR requires the cartridges to be changed prior to the end of the work day if the respirator user senses odor, chemical taste, or irritation.

The recommendation to change air-purifying elements at the "first indication of odor, taste or irritation" is common to the instructions of probably all manufacturers of respiratory equipment. This precautionary wording is applicable to air-purifying respirators when used for protection against air contaminants with adequate warning properties (detectable by odor, taste or irritation at levels below or near an applicable occupational exposure limit).

Few pesticides have adequate warning properties, so this recommendation is of limited value and cannot be used to determine the end-of-service-life of the air-purifying elements of respirators used for protection against most pesticides. This recommendation must remain since it may have some applicability for certain pesticides and, as a backup precaution for others. These considerations were the basis for development of the regulation covering the changing of elements.

The respirator manufacturer's instruction to change cartridges at the first indication of odor, taste or irritation should not be viewed as a recommendation regarding

service life, at least for protection against materials lacking warning properties.
WHS 96-002 Clarification of Respiratory Protection Regulations;
Information Request 91-044 Worker Safety-Respiratory Protection
(Section 6738(e)(9)).

Personal Protective Equipment -- Respiratory Protection and Dusting Sulfur

Many sulfur dust labels state “avoid breathing dust.” The products are sometimes applied by motorized backpack dusters which do not prevent contact with the dust.

A paper dust mask is adequate protection for handlers of these sulfur dust products if the mask is NIOSH/MSHA approved for protection from dusts and mists and the manufacturer’s directions for selection, fit testing, and replacement are followed. Masks without an approval number do not provide adequate respiratory protection for sulfur dust.

3CCR § 6738(h) requires the employer to provide the employee with approved respiratory protective equipment when required by pesticide labeling, established regulation, or when respiratory protection is needed to maintain employee exposure below an applicable recognized exposure standard. When labeling directs the handler to avoid breathing dust, respiratory equipment is not specifically required by pesticide labeling. There is, however, a recognized exposure standard for nuisance dust (i.e., 10 mg/meter³ for sulfur dust) established in *8CCR § 5155*.

In general, the agricultural application of sulfur dust rarely results in air concentrations that approach or exceed the exposure standard. If the handler can avoid breathing the dust without respiratory protective equipment, the use is in compliance with label directions. If the applicator cannot avoid breathing the dust, the use of approved respiratory protective equipment is required and the employer must comply with *3CCR § 6738(h)*. *Information Request 91-062 Respiratory Protection Dusting Sulfur.*

Personal Protective Equipment -- Respiratory Protection and Enclosed Cabs

DPR's Worker Health and Safety Branch maintains a list of enclosed cabs acceptable for respiratory protection. As new cabs are approved, the list is updated and sent out as an enforcement letter. *ENF 98-014 Updated List of Enclosed Cabs Acceptable For Respiratory Protection; ENF 91-13 Compliance Procedures for Enclosed Cabs Used in Place of Label Required Personal Protective Equipment.*

Personal Protective Equipment -- Respiratory Protection and SCBA Backup

If SCBA is required, in an enclosed space, two NIOSH-approved units should be present and the back-up unit should have a full air tank. If an employee must enter an enclosed space to begin aeration prior to clearing, he/she must wear SCBA and have a back-up person at the site. The back-up person must be similarly equipped *3CCR § 6782. ENF 89-073 Worker Safety Regulations, Question 115.*

Pesticide Illness -- Reasonable Grounds to Suspect

The following is a guideline to help determine reasonable grounds to suspect that (1) an employee has a pesticide illness, or (2) when an exposure to a pesticide has occurred that might reasonably be expected to lead to an employee's illness as used in *3CCR § 6726(c)*. If the employee is visibly contaminated, such as being splashed or drenched in pesticide, informs someone, or develops symptoms consistent with pesticide exposure, the employee should be immediately decontaminated and taken to a physician or medical care facility (*3CCR § 6726(c)*). *ENF 89-073 Worker Safety Regulations, Question 29.*

Posting -- Fields

3CCR § 6776(d) "...When a treated field is adjacent to an unfenced right-of-way, such as a road, trail, or path, additional signs shall be posted at each end of the treated field and at intervals not exceeding 600 feet along the treated field's border with the right-of-way." A public right-of-way is any road, path, trail, or area that is not privately owned and the public is not considered to be trespassing when they are upon it. The posting requirements of *3CCR § 6776(d)* are applicable to any

pesticide application made adjacent to a right-of-way regardless of the proximity to sensitive areas.

If there is a large permanent canal between the treated field and the right-of-way, then the field is adjacent to the canal rather than the right-of-way. If the commissioner determines that the canal or other impediment, such as a steep-sided ditch, is sufficient to keep unauthorized people out of the treated field, then the grower may be allowed to post only the entry points or corners required in *3CCR § 6776(d)*. *Information Request 94-010 Warning Sign Posting*.

Posting -- Forest

Posting of signs is required in forests when either: (1) a pesticide application results in a restricted entry interval greater than seven days; or (2) posting is required by the label. Note: For purposes of providing “Notice” under *3CCR § 6618*, the notification can be either oral or written (posting) unless the pesticide labeling requires both. *Information Request 92-015 Hazard Communications Requirements for Forests, Question 3*.

Posting and Restricted Entry Interval -- Interplanted Fields

Let us say an orchard interplanted with citrus and pears has Guthion applied during summer. The REI is different for citrus and pears. Since the REI is not only related to the specific crop but also to the field itself, the more restrictive REI is applicable. Posting based on the citrus re-entry applies. *Information Request 90-078 Posting and Re-Entry*.

Public Property -- Posting and Restricted Entry Interval

FAC § 12978 states that posting is required on public property if all the following conditions exist:

- There is a reentry interval of 24 hours or longer for the pesticide used.
- The application takes place on public property.
- There is foreseeable exposure to the public.

Please pay special attention to pesticide labels on products which may be used on public school grounds, parks, or other rights-of-way. Pesticide applications by

CalTrans on public highways are exempt (*FAC § 12978(f)*). *ENF 86-020 SB 1047*.

Restricted Entry Interval -- Beginning

The REI begins upon completion of the application. The REI and greenhouse ventilation criteria are independent of each other. No person, other than a properly trained and equipped handler, may enter a greenhouse until the ventilation criteria have been met *3CCR § 6772. ENF 97-076 Questions Regarding the Implementation of the Amended California Worker Safety Program, Question 6, page 35*.

Restricted Entry Interval -- Termination

3CCR § 6774(d) states, “A restricted entry interval, required by *3CCR § 6772*, may be shortened to not less than the restricted entry interval specified on the pesticide product labeling upon verification by the county agricultural commissioner that one of the following has occurred: ...” Enforcement letter *ENF 90-086 Guidelines for Authorizing Termination of Restricted Entry Intervals* describes the policies and procedures for the commissioner to follow.

Restricted Entry Interval and Notification -- Forest

Hunters and field workers who are likely to enter a forest do not need to be given notification unless the area the hunters or field workers entered is being treated or under an REI. If they enter an area under an REI, they must be notified of the location and description of the treated area, duration of the REI, and instructions not to enter until the REI is expired. For purposes of providing notice under *3CCR § 6618*, the notification can be either oral or written (posting) unless the pesticide label requires both. Also, the operator of the forest must make accessible to forest workers at the work site a completed copy of the Written Hazard Communication Program for Employees Working in Fields (PSIS A-9) *3CCR § 6618. Information Request Hazard Communications Requirements for Forests, Question 1*.

Seed Crops -- Commercial Agricultural Production

The production of seed crops is commercial production of an agricultural commodity and is covered by WPS 3CCR § 6700. *ENF 97-076 Worker Protection Standard, Question 1 page 7.*

Training -- Field Worker

Either the farm labor contractor or the grower can be held responsible to assure that their employees receive pesticide safety training. The grower-employer who hires the services of a farm labor contractor's employees to perform work on the grower's property must assure that those employees have received the required training. Generally, the agricultural employer who directs and controls the employees is the responsible party (3CCR § 6764). *ENF 97-076 Worker Protection Standard, Question 3 page 23.*

Training -- Field Workers from Out of State

California will accept field worker training from another state. The employer must be assured that the employee has received pesticide safety training within the past five years. If the employee possesses a valid U.S. EPA Training Verification Card (Blue Card) issued in another state, then the requirement for pesticide safety training is met (3CCR § 6764). *ENF 97-076 Worker Protection Standard, Question 1 page 23.*

Training -- Handlers and Delayed Effects

Under the hazard communication regulations, the employer must provide training so that each employee understands the hazards associated with exposure to pesticides with known or suspected chronic effects as identified in MSDS, pesticide labeling, and PSIS leaflets. If these sources do not list the delayed effects (i.e., tumors, cancer, birth defects), then the employer would not be required to seek further information provided the referenced materials were current. The employer could identify in the training records that there are no known long-term hazards identified in the MSDS, pesticide labeling, or PSIS that were available at training time. *Information Request 92-001 Identification of Long-term Hazards. ENF 92-047 Implementation of Worker Safety Hazard Communication Regulations, Q 29.*

Training -- Handlers from Out-of-State

Handler training from another state will not be recognized, due to the many unique aspects of California's requirements (3CCR § 6724). *ENF 97-076 Worker Protection Standard, Question 3.*

Training -- Non-English Speaking Employees

If the non-English speaking employee has been properly trained and the label has been fully translated, the review of the label does not have to occur each time the pesticide is used. Frequency of review and translation of the label would depend on a number of factors, including type of application, label changes, competency of employee, etc. *Information Request 90-090 Label Review for Non-English Speaking Employees.*

Training Verification Program

The U.S. EPA Training Verification Program enables trainers who meet certain qualifications to issue training verification cards to field workers who have been trained in WPS. Participation in the card program is voluntary. Qualified trainers must submit an application to DPR and contract for inventory control and record requirements. *ENF 94-060 Implementing the Federal Worker Protection Standard (WPS) Training Requirements in California.*

Treated Area

In the context of 3CCR § 6618(c), the “treated property” is the same as “treated area” or the physical location where a pesticide has been applied. *Information Request 92-016 3CCR § 6618(a) Notice. Structural Pest Control.*

When a pesticide is applied by a directed spray to the base of a tree in an orchard, the “treated area” is the area to which the pesticide is directed. The agricultural employer may designate what the restricted entry area is by the appropriate notice of application. It is this designated area, not the entire orchard, to which the REI applies 3CCR § 6000. *ENF 97-076 Worker Protection Standard, Question 5, page 2.*

Treated Field

When field workers are pruning grape vines early in the season before the field meets the definition of a treated field, and immediately following (30 feet behind the pruners) are pesticide handlers applying Benlate by a paint brush to the vines, the entire field is not considered a “treated field,” but only that area actually being treated. In this circumstance, the treated field is only that area of the grape vines that was actually treated (*3CCR § 6000*). *ENF 97-076 Worker Protection Standard, Question 4, page 2.*

A field is considered a "treated field" until 30 days have passed after the REI has expired, whether or not the crop that was treated has been harvested and removed from the field. *ENF 97-076 Questions Regarding Implementation of the Amended California Worker Safety Program, Question 3, page 2.*

Worksite and Workplace

“Worksite” is meant to describe the location of a work activity, e.g., mixing and loading site, field, etc. “Workplace” is meant to identify in more general terms the work area (e.g., the business operation or employer headquarters). They do not have the same meaning. *ENF 92-047 Implementation of Worker Safety Hazard Communication Regulations, Question 48.*

Chapter 17

RESTRICTED MATERIAL PERMITS

Authority and Responsibilities

Several sections of the Food and Agricultural Code (FAC) make clear that the Director has overall responsibility for statewide enforcement of the pesticide program, and such authority includes requiring commissioners to condition permits in accordance with directions of the Director and to enforce guidelines implementing regulations in 3CCR.

FAC § 14005. Except as provided in *FAC § 14006.6 (d)*, the director shall adopt regulations which govern the possession and use of any restricted material which he/she finds and determines is injurious to the environment or to any person, animal, crop, or other property.

The Director's authority under *FAC § 14005* for statewide enforcement instructions and recommendations is reinforced by *FAC § 14007*, which provides:

FAC § 14007. Every permit which is issued under the regulations adopted pursuant to this chapter is conditioned upon compliance with the law and regulations and upon such other specified conditions as may be required to accomplish the purposes of this chapter.

The commissioner may, of course, add additional restrictions to the permit pursuant to his authority under *FAC § 14006.5*.

Regulations adopted by the Director in 3CCR are as specific as practicable for the subject involved. However, it is impossible to specify every detail of every changing situation in regulations. Accordingly, DPR adopts guidelines from time to time interpreting and enforcing the regulations. Commissioners are responsible for enforcing such guidelines. *ENF 78-057 Department Authority to Issue "Guidelines" and "Permit Conditions" for Pesticides.*

When a restricted material permittee violates any applicable law or regulation,

his/her permit may be canceled. The permittee may be required, before the permit is reinstated, to submit a plan of action in writing to the commissioner to assure future compliance. For example, an employer may be required to explain in a plan of action how employees will be trained and supervised in relation to pesticide worker safety as a prerequisite for reinstating the permit. *ENF 75-054 Restricted Material Permit Cancellation - An Effective Enforcement Tool.*

Restricted Material Permit Issuance

Purpose

The purpose of the Restricted Material Permit process is to review the legality of the proposed application (such as proper registration), assess the effects of the application on the environment and require the user to mitigate adverse effects as much as possible or require that feasible alternatives are used.

The purpose of the certification process is to ensure that the applicator is competent to use or supervise the use of the pesticides for which the permit is valid.

General

Permits must be issued by qualified personnel (inspectors who possess a pesticide use enforcement license, or a deputy or commissioner license). The application part of the form may be completed by the applicant or other noncertified person, but the evaluation and issuance must be made by a qualified person.

Permits for agricultural use must be issued to the person who owns or controls the property. The permit may be signed by the operator of the property or the authorized representative. The applicant must have full authority to start, stop, or otherwise control the use of the pesticides covered by the permit. The permit becomes invalid if the signing person ceases to be the authorized agent. In such cases, the permittee must reapply for a new permit. The permit must also specify the certified person or business responsible for the application of the restricted materials. The operator of the property is the “permittee” and that person’s or firm’s name should be stated on the permit. The “applicant” is the person signing the permit.

A permit for non-agricultural use may be issued to the operator of the property, a pest control operator, or both. A licensed pest control business cannot act as a representative. If a person connected with that business possesses a Pest Control Advisers License and acts as an adviser, that person could legally act as a representative provided there is written authorization. You are not required to recognize a representative as qualified to obtain a permit even though he/she has written authorization.

In cases where a government agency is making applications on an individual's property under a mandated program, the permit can be issued to a responsible person representing that agency. If, under *3CCR § 6412(a)*, the restricted material is applied under the direct supervision of the commissioner, a permit may not be required. *ENF 85-029 County Rodenticide Programs.*

If a permit for an agricultural use is obtained and the permittee plans to have the application made by a licensed pest control business, that firm must be named either on the permit or the Notice of Intent.

Restricted Material Permit Evaluation

Review the application for completeness. Does the permit clearly show the materials for which it is valid? If the permit is issued for several materials, the pests, commodity or site, formulation, and method of application may vary. When differences occur, is this clearly indicated for each material? Any information not obtained at the time the permit is issued must be shown on the Notice of Intent. The Notice of Intent is considered a part of the permit. You must possess all of the information pertaining to the application (permit plus Notice of Intent).

A restricted material application may be allowed to proceed less than 24-hours after the filing of a Notice of Intent if prior to the application you can complete the required evaluation. *ENF 82-015 Regulation Amendments Pertaining to 24-Hour Notices of Intent.*

FAC § 14006.5 requires that a permit be denied if the application will result in serious uncontrollable adverse environmental effects; the use is of less value than the benefits obtained; or there is a reasonably effective substitute available that is less destructive to the environment. The law also prohibits issuing permits if there

is no product registered (or previously registered and still available) for the situation in question.

Evaluate surrounding areas that could be adversely impacted by the application. This would include such things as dwellings, waterways, schools, labor camps, apiaries, susceptible crops, etc. There is no fixed distance within which things must be considered. This distance would vary based upon the effects, method of application, and formulation of the pesticide. The effects of pest resurgence or secondary pest problems and provisions for storage of pesticides and containers must also be considered.

The identification of sensitive areas may be made on a map or in a narrative form. Use of a map or aerial photograph in the commissioner's office is acceptable provided it is detailed enough to identify the area treated from permanent reference points and identifies sensitive areas for the current year. Maps must be reviewed for accuracy each time the permit is issued or when changes in the surrounding area indicate an update in the map is necessary. Date and initial the map to show the most current edition whenever the permit is renewed or whenever the map is revised. The person filing the Notice of Intent should be aware of what was initially considered on the map so that any changes can be indicated when the Notice of Intent is filed.

Condition the permit to mitigate the hazards identified in the evaluation of the surrounding areas. Decide if standard county permit conditions are adequate for each site. Add any necessary specialized permit conditions for each site. Special restrictions should address conditions not addressed by existing laws and regulations (i.e., avoid drift, don't contaminate waterways). Knowledge about when to restrict a permit comes from county policy, experience, and familiarity with the area.

While the regulations require the posting of appropriate Pesticide Safety Information Series leaflets, the statements contained in these leaflets are considered as informational only, not requirements. You may make them requirements by identifying specific portions of these leaflets as permit conditions.

If it is determined during the permit application review process that adequate mitigation measures do not exist, you must then determine if there are feasible

alternatives. If there are feasible alternatives, the permit should be denied. When a permit is denied, a record should be kept that includes the chemical, commodity or site, and reason for denial. This record may be a copy of the permit application, or other county-developed record. Permit denials that are not substantiated must not be reported on Report Number 5.

In cases where treatment will be on a continuous basis, such as nurseries, rights-of-way, or spot treatments, a pesticide use schedule may be submitted in lieu of a Notice of Intent. The use schedule must be in writing, attached to the permit, and updated when any changes in the schedule occur.

In the case of specific commodities, which may require repeated treatments at scheduled intervals, one Notice of Intent at the commencement of treatments will suffice as long as the pesticide remains the same, the schedule is specified on the Notice of Intent, and there is no change in the scheduled dates. This does not limit the commissioner's authority to require individual Notices of Intent if the commissioner feels that local conditions warrant more frequent reporting.

Commissioners may require more than 24-hours notice prior to an application. In addition, different situations may require different methods of submittal. For example, the commissioner may require that for weekend applications, notices with no changes in the environmental setting may be submitted by drop box, but that notices with changes must be phoned in. There are several methods that can be utilized for filing Notices of Intent including posting at specific locations, drop boxes, phone in, fax machine, or by mail. The method of collecting Notices of Intent will differ based upon the number of applications made, distance, and the county staffing level. The commissioner must be capable of reviewing all Notices before their applications.

Non-agricultural permits do not require Notices of Intent. *3CCR § 6436* requires at least one annual inspection for each non-agricultural permit. Notification from these permittees must be sufficient to allow for these inspections.

Inform the permit applicant about the availability of any pest management guides for the commodity or site in question. The statements in these guidelines are considered informational only, not requirements. You may make them requirements by identifying specific portions as permit conditions.

Also, inform the permit applicant about pesticide use reporting requirements. Be sure the permittee understands how to properly complete the use report. Warn that failure to report may result in the cancellation of the permit, refusal of future permits or civil penalties.

Issue the permit or deny with cause. Permits should be issued for no longer than necessary. If the permittee only needs to use restricted materials for a limited amount of time (e.g., one herbicide application), issue a seasonal or job permit. If numerous or repeated applications are anticipated, issue an annual permit, or, as appropriate, a triennial permit. A follow-up on all permits should be performed to get reports and clear the record.

You may want to make an inspection of the applicant's equipment before the permit is issued. This is particularly true if the situation requires use of a closed system. You may also want to inspect the pesticide container storage facility to ensure it meets the requirements of the regulations for both full and empty containers.

Applicator Certification

Pesticides designated by U.S. EPA or State of California as restricted use can be applied only by or under the supervision of a certified applicator. To become a certified applicator, a person must demonstrate competency to handle these potentially hazardous pesticides properly and safely. The mechanism currently used to determine the knowledge and abilities of persons who intend to handle restricted-use pesticides is through the written examination process. These examinations test the applicant's knowledge to assure that restricted-use pesticides are used properly and safely by persons who have indicated an understanding of label directions; transportation, storage, and disposal requirements; pesticide use report requirements; environmental protection; and employer's responsibilities concerning field workers, and employees who handle pesticides.

Prior to issuance of a Restricted Material Use Permit, each private applicator, as defined in 3CCR § 6000, must be required to take the *Private Applicator Certification Examination*. (See chapter 6 for certification of Private Applicators). The "Private Applicator Certification Statement" is acceptable in additional counties when an applicant applies for a permit. The examination and certification process is not necessary if the person seeking the permit holds a valid

Qualified Applicator License or Certificate in the appropriate pest control category. For the production of an agricultural commodity, the proper category would be Plant Agriculture (D). *ENF 90-143 Private Applicator Certification Examination.*

All applications of a restricted material must be made under the supervision of a certified applicator. If a farm management company makes restricted material applications, it must be a licensed pest control business:

- (See Farm Management Firm in agricultural pest control business policies, Chapter 4).

Operator Responsibility

Inform the permittee about filing Notices of Intent. It is the responsibility of the operator of the property to submit the Notice of Intent. However, the Pest Control Operator or authorized representative may submit the Notice of Intent for the operator. *ENF 81-037 Responsibility for Submitting NOIs.*

Time Specific

The definition of "time specific" requires the applicator to specify the date the intended application is to commence. If the permit applicant knows the treatment date(s) at the time of permit issuance (as well as other required information), there would be no further Notice of Intent requirements. The four-day time period for Notice of Intent is at the discretion of the commissioner. A new Notice of Intent is not required until the four-day interval has lapsed (*3CCR § 6000*).

Restricted Material Review and Appeal Process

A growing number of people living near agricultural production areas are very concerned about the pesticides that are applied near their homes; however, most permit review situations do not occur spontaneously. The commissioner's responsiveness before a formal review request may resolve some citizen concerns. Although some people may seek to use the permit review process to stop pesticide use, others may resort to the permit review process to resolve difficulties in obtaining information. Regardless of the individual's intent, people must be provided with information about the pesticides to be applied near their homes.

Conditions to be imposed, including purposes served by the conditions and how the permit system works, including the Notice of Intent portion of the permit process, may resolve some situations. The commissioner's office can mediate many situations by constructive dialogue with people living near pesticide application sites before issuing a permit; however, some permit review requests will occur no matter how much effort you make. In these cases, early communication with people living near pesticide application sites will ensure a timely conclusion to the permit review process.

Permit Appeal Process

FAC § 14009 establishes the process for interested persons to ask a commissioner for a permit review. A person does not have to live in the immediate vicinity of the pesticide application site to ask the commissioner to review the decision to issue the permit. The interested person does not have to live in proximity to the site. In an extreme case, someone outside your county could request a permit review.

FAC § 14009(a) provides that:

Any interested person may request the commissioner to review his/her action in issuing, refusing, revoking, suspending, or conditioning a permit to use or possess a restricted material. The commissioner shall review the request and issue a written decision in response to the request to review within 10 days of receipt of the request, or as soon as practicable. The commissioner may affirm, modify, or cancel the permit action reviewed.

FAC § 14009(c) provides that:

Each request for review shall be submitted in writing to the commissioner by the person requesting the review and shall include all of the following:

- (1) The location of persons, property, or areas that would be affected and the location of property to be treated.
- (2) The name of the restricted material involved.

(3) The name and address in charge of the property to be treated, if different from the person filing the request for review.

(4) Any other information that the person filing the request for review or the commissioner determines to be relevant.

If you receive a written permit review request, please send a copy of it upon receipt to your Senior Pesticide Use Specialist who will forward the request to the chief of DPR's Pesticide Enforcement Branch.

The commissioner must issue a written decision within 10 days of receiving a written review request or as soon as practicable. The phrase "as soon as practicable" allows the commissioner to issue the decision more than 10 days after receiving the request. However, the commissioner is encouraged to complete the review and issue the decision in 10 days or less whenever possible because the law also requires commissioners to "conduct each review in an expeditious manner so that needed pest control measures are not adversely affected." After the commissioner issues the decision, a directly affected person may appeal to the director to review the commissioner's permit action. To let us know when to expect a possible appeal, please send a copy of your decision, the review request, and the complete permit to your Senior Pesticide Use Specialist and DPR's legal office upon issuing the commissioner's decision.

If the director receives an appeal from a directly affected person, he/she must act on the appeal within 10 days of its receipt or as soon thereafter as practicable. Also, the Director may stay the operation of the permit during the review and for a reasonable period of time after issuing his decision. If delaying a pesticide application could impact a critical pest control operation or a person had knowledge of a permit and ample time to request a commissioner review or appeal to the Director, but did not do so until just before an application, the Director may allow the application to proceed and not stay the operation of the permit.

If the Director receives a written request for a public review, he/she must review the information provided to him/her on appeal in a place open to the public. The Director must notify directly affected persons at least 72 hours in advance of the location and time of the review. The Director's office will need to coordinate with the commissioner's office to find an appropriate location to conduct the public

review. At the review, the Director may request additional testimony or other evidence, but he/she is not required to do so. In acting on several recent appeals, the Director allowed additional testimony and evidence and asked questions of the commissioners at the public reviews to clarify the process the commissioners used in issuing or conditioning permits.

When the Director acts on an appeal, his/her review is limited to any of the following issues:

- (1) Whether the proposed permit use is consistent with applicable pesticide label restrictions and applicable regulations.
- (2) Whether the commissioner properly considered the provisions of *FAC § 14006.5*.
- (3) Whether the commissioner abused his/her discretion in issuing, refusing, revoking, or conditioning the permit.

Because these are the issues before the Director on an appeal, the commissioner should cover each of these issues and include an explanation of how the conditions, which were imposed, addressed the local condition and other provisions of *FAC § 14006.5*. The commissioner's decisions should be thorough and well reasoned, discussing any meetings commissioner staff may have had with concerned citizens before the permit was issued, and be responsive to the issues raised by the review requester.

If the persons who appealed to the Director disagree with his/her decision, they can seek court review of the decision. The court's review is limited to the issues of whether the proposed permit use is consistent with applicable label restrictions and regulations and whether the Director abused his/her discretion.

Communication and Advanced Planning

Commissioners should encourage permit applicants to plan their permit needs well in advance and to openly communicate with people who live near application sites before applying for permits. Your involvement in these communications will ensure that the residents receive accurate and complete information. The Director encourages early involvement with concerned residents regarding the permit process.

Letting concerned citizens know that you issued a permit and providing them with a complete copy of the permit in a timely manner will aid in the efficient operation of the permit process and the permit review process if requested. This is an especially important factor in determining whether to stay operation of the pending permit.

Executive Office Letter 97-005, 10-28-97.

Fax -- Approving Amendments

Commissioners have the option of issuing or accepting permit amendments by fax or mail. The commissioner may approve, by fax or mail, changes to add a pesticide, commodity, or site to a grower's restricted material permit. The commissioner must ensure that the requirements in *3CCR Subchapter 4, Article 2, Restricted Materials, Possession and Use Limitations*, are met.

Permit changes, such as adding or deleting a pest, correcting the address, or adding or deleting a pest control business, may still be amended by a telephone call.

The permittee and commissioner must sign and date the faxed or mailed amendment.

The permittee should be made aware that a permit is not final and a pesticide application cannot proceed until he/she receives a signed copy from the commissioner. *ENF 97-042 Restricted Material Permit Amendments Approved via Faxes.*

Ground Water Protection and Private Applicators

This information applies to permit, applicator certification, and sales requirements for Ground Water Protection (GWP) list chemicals (i.e., atrazine, simazine, diuron, prometon, and bromacil) purchased by private applicators. Certified private applicators with a valid permit for any restricted material may possess and use GWP pesticides specified in *3CCR § 6800(a)*, outside a Pest Management Zone (PMZ) without a permit. If the material is listed in *3CCR § 6800(a)*, labeled for agricultural, outdoor industrial, or outdoor institutional use and used in a PMZ, the material must be listed on the Restricted Materials permit. Since these pesticides are specified in *3CCR § 6800(a)* as restricted materials, they may only be possessed and used by a certified applicator.

Dealers must always obtain a signed statement as specified in *3CCR § 6570 Ground Water Protection Materials Requirements*) when selling GWP materials. If the signed statement indicates the purchaser will be using the pesticide inside a PMZ for agricultural, outdoor industrial or outdoor institutional use, a copy of the purchaser's permit which lists that material is required. *ENF 90-149 Ground Water Protection Permits for Private Applicators*.

Exempt Materials

Exempt materials include those materials specified in *3CCR § 6402* and those materials or formulations of materials exempted from permit requirements in *3CCR § 6400*.

Grower Responsibility

It is ultimately the responsibility of the operator of the property to see that a Notice of Intent (NOI) is submitted. The PCB or the authorized representative may submit the NOI for the operator of the property. It is the responsibility of the PCB to operate only within the permit so if the permit is conditioned for the PCB to file the NOI; failure to file would be a violation.

If you find an application taking place for which no NOI has been submitted, you may stop the job since it is not in accordance with the conditions of the permit regardless of who failed to submit the NOI. *ENF 81-037 Grower Responsibility for Submitting NOIs*.

Job Permits

Notice of Intent is not required for job permits if all the information required by *3CCR § 6428(g,h,i)* is included on the permit. *ENF 79-184 AB 3765 Regulations*.

Residential Areas

Residential areas mean areas zoned as residential where people are actually residing and labor camps where people are actually residing. Individual dwellings will be considered in the evaluation of the NOI.

Home Use Restricted Material Exemption

3CCR § 6400(e) states that a permit is not required when carbaryl is labeled for home use. If an applicator is spraying trees in an agricultural setting, i.e., parks, golf courses, or city property (landscaped street medians and sidewalk areas), a permit is required for possession and use since these areas are not defined as home use applications. *ENF 88-013 Restricted Material Permit Exemption for Home Use of Carbaryl (Sevin)*.

Chapter 18

PESTICIDE PRODUCT REGISTRATION

Generally, it is illegal to manufacture, deliver, or sell any substance which makes pesticidal claims or is represented to be the essential ingredients necessary to constitute a pesticide unless it is registered by U.S. EPA and DPR (*FAC § 12993*). It is also illegal to use an unregistered pesticide. *FAC § 12995* prohibits, with some exceptions found in *3CCR § 6301*, use of a pesticide which is not registered. The purpose of the registration process is to evaluate a pesticide for suitability and efficacy under California conditions. The law requires that a pesticide producer register a product before it is offered for sale. The law also specifies the producer is in violation if the product is shipped after the registration has expired.

Exceptions to the Registration Requirement are as follows:

- (1) Attractants - attractants are not considered pesticides (*FAC § 12753*).
- (2) Certain Pesticide Substances - U.S. EPA has determined that certain substances (mostly food products) do not pose an unreasonable risk to public health or the environment and has therefore exempted them from registration requirements. To qualify for the exemption, the pesticide label must identify all ingredients of the product and all of the ingredients must be listed in *Title 40 Part 152(g)(1) of the Code of Federal Regulations*. In addition, the label must comply with regulations regarding false and misleading statements and cannot bear claims to control or mitigate microorganisms that pose a threat to human health or carriers of such organisms. *ENF 96-029 Federal Insecticide, Fungicide and Rodenticide Act Exemptions for Certain Pesticide Substances*.
- (3) Previously registered Products - A dealer, broker, or distributor who acquired a pesticide product while the product was properly registered may lawfully sell and deliver the product for two years after the last date of registration. If acquired by an end-user while legally registered or within two years after the last date of registration, such products may be possessed and used indefinitely.

Recommendations may be made and restricted permits may be issued for the use of such products. However, a pesticide cannot lawfully be sold or used, or a permit issued contrary to any EPA or DPR cancellation or suspension order pertaining to use.

Contact your regional pesticide enforcement office or Senior Pesticide Use Specialist for any questions you may have regarding these policies.

Unregistered Pesticide Products

It is unlawful for persons to mix and apply, for pesticidal purposes, materials that were prepared from unregistered materials (e.g., an unregistered bordeaux mixture made from copper sulfate and hydrated lime that is subsequently used as a fungicide. It is a violation of *FAC § 12995* to possess and use unregistered materials intended for pest control purposes. *ENF 89-157 Use of Unregistered Pesticide Products*.

Chapter 19

PESTICIDE USE REPORTING

Submission of pesticide use reports to the Director by commissioners complies with *FAC § 14012(b)*. This section requires that commissioners submit copies of all use reports to the Director within one month of receipt. Tabulation of the separate reports is made by DPR. At the end of each quarter, a use report summary is made available to the Director, commissioners, and to the public. An annual use report summary, by chemical and commodity, is also published each year.

Agricultural Production -- Pesticide Use Reports

Agricultural pest control businesses and private applicators that apply pesticides for the production of agricultural commodities must report the use of all pesticides to the commissioner of the county in which the application was made. Growers must report by the 10th day of the month following the month of the pesticide application. Currently, growers may utilize various use report forms to meet this requirement. Agricultural pest control businesses must report within seven days of completion of the pesticide application.

Aquatic Treated Site Reporting

The following policies address the reporting requirements for pesticides that may be applied to various water impounds and other aquatic areas:

Industrial uses do not require reporting unless the material is State or federally restricted or applied by a licensed pest control business. Examples: treatment of settling ponds at sewage treatment plants or the chlorination of drinking water at a city facility.

Nonproduction agricultural uses require an operator identification number and subsequent reporting. Examples: the use of pesticides in reservoirs used for irrigation of crops or livestock watering or the treatment of water in recreational areas to control aquatic weeds or other pests. The application of pesticides to control vegetation in the marshland areas of hunting clubs or

wildlife refuges also falls under this use and requires reporting. Use the *Monthly Summary Use Report form PR-ENF-060. ENF 90-122 100% Pesticide Use Reporting - Aquatic Treated Sites (Policy Letter No. 11).*

If a reservoir is part of an industrial complex or a processing plant, located on property associated with an industrial site, or used in an industrial activity, then a pesticide application to this type of reservoir is considered an industrial use. *ENF 96-007 Amendments to Enforcement Letter 90-122, "100% Pesticide Use Reporting: Aquatic Treatment Sites (Policy Letter No. 11).*

CalTrans Reporting

The CalTrans statewide designated pesticide purchaser must provide the dealer who was awarded the statewide contract with a CalTrans operator identification number. Prior to the use of agricultural pesticides in a county, the District CalTrans Landscape Specialist will obtain an operator identification number from each of their counties where pest control work will be performed. CalTrans uses an electronic transfer system to report pesticide use directly to DPR and not to the respective commissioner. If you would like a printout, contact the District Landscape Specialist in your county. *ENF 90-001 Use Reporting Requirements for CalTrans (Policy Letter No. 4).*

Commissioner Sales

Commissioners may, when selling small lots (20 pounds or less) of restricted materials, have the purchaser complete a Notice of Intent Form *PR-ENF-126X* and a Pesticide Use Report Form *PR-ENF-025* in their office when the material goes out on the assumption that use of these small amounts will occur as proposed. As an alternative, the material may be included on the commissioner's use report.

When products are included on the commissioner's report, accurate records must be kept including name and address of the user, location of the use, and time of use.

When distributing lots greater than 20 pounds, the user should submit a Notice of Intent and a Pesticide Use Report in the normal manner.

Egg Laying Facilities

An egg laying facility should not be issued site identification numbers. They are specifically exempted and therefore nonproduction agriculture. If the property operator is purchasing the pesticide and making the application, an operator ID number is required. Site ID numbers are not required. The Monthly Summary Pesticide Use Report Form should be used. If a PCB is purchasing the pesticide and making the application, the property operator does not need an operator ID number. *ENF 90-058 100% Pesticide Use Reporting (Policy Letter No. 10).*

Fallow and Non-crop Reporting

There is a distinction between fallow and preplant pesticide applications. Preplant applications occur just prior to planting and are related to the growth and development of the crop. Fallow ground pesticide applications are not related to the growth and development of any subsequent crop and are not considered production agriculture. Preplant applications would be reported on the Production Agriculture Monthly Use Report. Fallow ground applications would be reported on the Monthly Summary Pesticide Use Report.

Ranchette and home garden situations that are producing commodities for personal consumption only are exempt from the reporting requirements. This also includes pesticide uses on pastures for the production of livestock for personal consumption. DPR does not consider these situations agricultural commodity production. *ENF 90-019 100% Pesticide Use Reporting (Policy Letter No. 7).*

Fish Ponds

Fungicides and bactericides added to ponds used to raise edible or ornamental fish do require reporting. The fish producer needs an operator ID number or restricted material permit. Fish are specifically exempt, so a site ID is not required. Fish producers report their applications on the Monthly Summary Pesticide Use Report Form. *ENF 90-058 100% Pesticide Use Reporting (Policy Letter No. 10).*

Grain Fumigation -- NOI Waiver

Example of waiver wording:

Pursuant to 3CCR § 6434 pertaining to 24-hour NOI and Waivers,
_____ County waives the 24-hour notice for commodity grain fumigations based on the following findings: effective pest control cannot be attained with a 24-hour notice requirement because (1) shipments received have insect infestations which if not controlled may infest other lots; (2) treatment is necessary because shipment is scheduled to depart within less than 24-hours; or (3) treatment is necessary within less than 24-hours to allow for the completion of the fumigation phase of the application prior to scheduled exportation (i.e., “Static” truck trailer type fumigations).

Special conditions for applications under this waiver:

1. NOI shall be given with at least one-hour notice prior to application.
2. NOI shall state or substantiate the need to treat, e.g., weevil infestations.

_____ County Department of Agriculture Date _____

ENF 89-168 100% Pesticide Use Reporting (Policy Letter No. 1).

DPR recommends that the commissioners issue “site specific” identification numbers for nonrestricted material sites. *ENF 81-020 24-Hour NOI Waiver for Commodity Fumigation of Grain.*

Grape Reporting

All use reports for grapes shall be reported as either table grapes (raisins, canning or juicing) or wine grapes. This will allow specific reports to be made available to interested parties and for accurate scientific review of risks associated with grape consumption. *ENF 89-169 100% Pesticide Use Reporting (Policy Letter No. 2).*

Late Use Reports

Both monthly and weekly use reports are considered delinquent if not postmarked by their due dates.

Milking Structures and Equipment

Applications to milking structures and equipment are industrial treatments. Applications to corrals, barns, are nonproduction agriculture. If the property operator is purchasing the pesticide and making the application, an operator ID number is required. Site ID numbers are not required. The Monthly Summary Pesticide Use Report Form should be used. If a PCB is purchasing the pesticide and making the application, the property operator does not need an operator ID number. *ENF 90-058 100% Pesticide Use Reporting (Policy Letter No. 10)*.

Monthly Summary Pesticide Use Reports

Individuals, companies or agencies other than those involved in the use of pesticides for production agriculture must also report pesticide use if they are using any of the following pesticides:

- C Pesticides used in nonproduction agricultural use settings such as cemeteries, parks, ditch banks, and rights-of-way.
- C Any restricted material as listed in *3CCR § 6400*, except those listed in subsection (r).
- C Pesticides used in the business of pest control.
- C Pesticides used for industrial, post-harvest commodity treatment, including seed treatment.
- C Pesticides listed in the Ground Water Protection List, *3CCR § 6800(b)* for any outdoor institutional or outdoor industrial use.

Use of these types of pesticides must be reported on a monthly basis using the Monthly Summary Pesticide Use Report Form *PR-ENF-060*.

Mushroom Farm -- 100% Pesticide Use Reporting and Site ID Numbers

The intent of this policy is to reduce the number of pesticide use reports submitted by mushroom growers. Growers will follow these procedures for identifying a site, obtaining a site ID, and reporting:

Identify the growing facility and obtain a site ID for the crop cycle. During the next crop cycle, a different number will be issued. A crop cycle is not to exceed 60 days.

Calculate, in square feet, the total growing capacity of the site. Use this figure for the “units/acres” on the restricted material permit application, the operator identification number application, and the “units/planted” on report form *PR-ENF-017C*. If the growing capacity exceeds 999,999 square feet, an additional site ID is obtained.

Report daily pesticide use on report form *PR-ENF-017C*. For example, if on April 1, 24 rooms totaling 120,000 square feet are treated with pesticide “A,” enter 120,000 square feet as the “units/treated.” Repeat this procedure for all pesticides used on April 1.

Enter the date and the time of completion of the last application for product “A.” Repeat for all pesticides used on April 1. Steps 3 and 4 will be performed on each day pesticides are applied.

ENF 90-030 100% Pesticide Use Reporting and Site Identification Numbers for Mushroom Production Facilities (Policy Letter No. 8).

ENF 97-020 100% Pesticide Use Reporting and Site Identification Numbers for Mushroom Farms.

ENF 97-066 100% Pesticide Use Reporting and Site Identification Numbers for Mushroom Farms -- Addendum.

Negative Use Reports

Licensed agricultural and structural pest control operators must submit negative use reports for months in which no pesticides were applied. These negative reports must be submitted to commissioners by the 10th day of the following month. Negative use reports are not required of growers or other pesticide applicators.

Nursery Use Reports

Six nursery commodity groups have been established for the purpose of reporting pesticide use:

- Greenhouse-grown cut flowers or greens.
- Outdoor-grown cut flowers or greens.
- Greenhouse-grown plants in containers.
- Outdoor container and field grown plants.
- Greenhouse-grown transplants and propagative material.
- Outdoor-grown transplants and propagative material.

These groups are specific to the use reporting requirements of *3CCR § 6626*. They do not meet the requirements of record-keeping for restricted materials and NOIs which require crop and commodity specificity.

It is permissible to use the commodity groups for reporting pesticide use on ornamentals even though the restricted material permit is crop-specific. For reporting purposes, specific crop identity is not as critical for ornamental crops as it is for commodities that are produced for consumption.

For use reporting purposes, the commodity groups can be used for both restricted and non-restricted reporting.

In a greenhouse setting, sites may include individual greenhouses, growing areas within greenhouses, or any other specific growing areas. It is not necessary for each species in a location to be given separate identification numbers. The commodity group name on the pesticide use report will differentiate between commodity groups with the same site identification number. On the other hand, reentry records should be kept as specific as possible, by greenhouse or by specific growing areas within greenhouses. Fruit tree or vegetable transplants will not be considered in dietary risk assessments because of their minor amount of pesticide usage. These commodities are being produced for transplant, replanting, etc., and not for consumption. *ENF 90-005 100% Pesticide Use Reporting (Policy Letter No. 6)*.

Operator ID Number Issuance

There is no authority for a commissioner to refuse, suspend, or revoke an operator ID number.

Processor-owned Poultry -- Operator ID Numbers

The person making the pest control decisions and applying the pesticide is responsible for obtaining the operator ID number and submitting use reports when the poultry is owned by the processor, but not raised under contract with the grower. *ENF 90-058 100% Pesticide Use Reporting (Policy Letter No. 10).*

Rodent Bait Use by Operator IDs

Commissioners who sell pesticides (rodent baits) to persons who have operator ID numbers are not required by regulation to submit the quarterly report to other counties where the person has indicated pest control activities will be performed because commissioners are not licensed pesticide dealers. The quarterly reports are intended to inform the commissioners of pest control activities and that use reports could be expected. DPR recommends that such quarterly use reports are sent to applicable counties. If a crop is being produced for seed line or hybrid development and is not being offered for sale, it is not considered an agricultural commodity. *ENF 89-170 100% Pesticide Use Reporting (Policy Letter No. 3).*

Seed Treating

Because seed treatment is an industrial use, it is generally exempt from pesticide use reporting. However, if restricted materials or Ground Water Protection List pesticides are used (*3CCR § 6800*), or if any pesticide is used by an agricultural pest control business, reporting is required.

The application of seed treatment pesticides is to be reported showing the amount of pesticide used. The commodity treated should show the type of seed. Units treated will show the pounds of the seed. Location of treatment is to be shown in the usual manner. This is to be reported on the *Monthly Summary Use Report Form PR- ENF-060*.

Small Producers

A small producer who is growing a commodity, such as berries, that will be made into a product, such as jam, that will then be sold to a consumer must obtain an ID number and submit a pesticide use report (PUR). This situation is identical to hay growers who market their own hay and wineries that grow their own grapes.

ENF 90-058 100% Pesticide Use Reporting (Policy Letter No. 10).

Structural Pest Control Operator Reporting

Structural pest control operators (SPCOs) will complete the Total Number of Applications box at the top of the *Monthly Summary Pesticide Use Report*. SPCOs identify the number of applications for each restricted and signal word “Danger” pesticide applied. SPCOs will not be required to identify the number of applications for each nonrestricted signal word “Warning” or “Caution” pesticide applied.

The statement in ENF 89-075, “require that all monthly pesticide use reports include the number of applications for each type of pesticide applied” is rescinded.

ENF 90-013 100% Pesticide Use Reporting (Policy Letter No. 5).

Vector Control Districts

Vector Control Districts that have entered into a cooperative agreement with the California Department of Health Services should submit pesticide use reports to the California Department of Health Services, Environmental Management Branch. If restricted materials are used, a copy must be submitted to the commissioner. The commissioner should not forward vector control district reports to DPR. The Department of Health Services tabulates the information and forwards it DPR. Districts not entered into a cooperative agreement must submit all use reports to the commissioner. Commissioners should then forward these use reports to DPR.

Wood Pulp

A eucalyptus grove planted for pulp is considered forestry. Site ID is not needed. Use the *Monthly Summary Pesticide Use Report Form* to report pesticides used.

Chapter 20

RESEARCH AUTHORIZATIONS

3CCR § 6260

3CCR § 6260 of the pest control operations regulations requires persons to obtain a Research Authorization from the Director prior to using pesticides in conflict with labeling for experimental purposes.

This authorization is not required of pesticide registrants engaged in experimental work with pesticides on property under their control or of colleges and universities where the experimental use of pesticides is used according to the current established policy of the college or University.

All requests for Research Authorizations must be referred to DPR's Pesticide Registration Branch. In this way, DPR can uniformly evaluate and regulate these uses.

For each Research Authorization, the hazards to persons, animals, and the environment are evaluated, and certain restrictions are imposed on the work before the authorization is issued. Special, local conditions may dictate further restrictions at the county level. The intent of the regulation is to prevent produce bearing an illegal residue from entering the food chain and to prevent undue contamination of the environment.

Research Authorizations are approved for statewide use. Research Authorization holders are required to provide copies of the Authorizations along with Notices of Intent (NOI) to commissioners at least 24-hours prior to beginning work in each county. Commissioners should not accept an NOI without a copy of the Research Authorization. Following the final application, the *Experimental Trial Report Card Form (PR-ENF-032)* must also be submitted to the commissioner (*3CCR § 6266*).

Unless otherwise specified in correspondence or on the Authorization, monitoring of this program is at the discretion of the commissioner.

Restricted Material Permits are not required for restricted materials used under a valid Research Authorization. Any registered pesticide uses made in conjunction with Research Authorization pesticides (standards, etc.) would require a permit.

Research Authorizations are conditioned to expire on completion dates or when the crop is harvested or destroyed. When experimental work is canceled in a county, the applicant should notify the commissioner using the *Experimental Trial Report Card Form (PR-ENF-032)*. If the authorization holder has not contacted the county by the expiration date on the Authorization, note this and return it to the Pesticide Registration Branch.

Permission to do research and development work with pesticides in California is predicated on compliance with all applicable regulations. *ENF 87-101 Research Authorization Procedures*.

Special regulations printed on the permit address these specific concerns:

1. “Notify the commissioner of each trial location within his/her jurisdiction at least 24-hours before beginning application.” The commissioner reserves the right to review your plans as they pertain to regulations and conditions within the county. The work may be denied or you may be asked for specific changes if your plans are determined to be detrimental in any way.
2. “Notify the commissioner of the exact location in writing (or map) within seven days after application, or before harvest whichever is sooner.” “Exact location” means that sufficient detail must be included to allow someone not familiar with the area to be able to locate and observe the trial using only the information and map. This map should contain reference to permanent fixtures, buildings, etc. where necessary, with an appropriate reference to an identifying spot and/or corner of the trial. The overall perimeter of the trial with appropriate dimensions must be shown.
3. “Notify the commissioner if you cancel this work in any of the listed

counties.” If you have listed a county as a candidate for your work and you find that, for any reason, you do not work in that county under terms of that particular permit, it is considered that you have canceled that work and the commissioner must be notified.

4. “Notify the commissioner of the time, place, and method of crop disposal at the earliest possible time before beginning harvest.” The commissioner should know of the proper disposal of all treated material.

ENF 78-033 Form Letter to Be Sent to Each Applicant for an Experimental Use Permit.

Special restrictions printed on the permit address specific concerns with respect to proper county notification procedures and crop harvest or crop destruction restrictions.

Contact your regional pesticide enforcement office or Senior Pesticide Use Specialist for any questions you may have regarding these policies and procedures.

Index of Subjects

Page numbers for the primary policy are in bold (e.g., **123**)

A.

AB 1111	115
Abbreviations	xv
Accessible defined	118
Active Ingredient -- Seasonal Use	89
Adjuvant	88, 93, 94, 107, 114
Adviser	40-51
Aerial applications	68, 73, 89
Aerosol container disposal	53
Agricultural civil penalty	66, 74, 75, 76, 146
Agricultural commodity production	158
Agricultural Pest Control Business . . .	3-24,48,80,91,147,155,162
Agricultural Pest Control Business, Qualified Person	15
Agricultural use	44
Aircraft pilot certification	36
Air-gap	63
Air-purifying	131-133
Animal agriculture	25, 27, 30
Antifouling paint	31
Antimicrobials	129
Apiary	62
Applicator statements	89
Apprentice pilot	36-39
Apron	130
Aquatic pest control	18
Arid area	118
Assume the risk	118
Attended	23, 76, 77, 92
Attractant	94, 154
Authority to inspect	7, 63
Authorization	32, 111, 113, 114, 143, 164, 165
Authorized representatives	32, 44 , 52, 55, 58, 82, 142, 147, 152

B.

Backflow prevention	63
Bag burning	65
Bag disposal	64
Bait boxes tamper resistant	90
Bait boxes - urban areas	91
Bait station labeling	92
Bait stations - structural	92
Barrier laminate	130
Biological control	6, 12, 18, 46
Boots	131
Branch 1 - fumigation	53, 56, 59, 61
Branch 2 - General Pest Control	53, 56, 60, 61
Branch 3 - Termite control	53, 56, 60
Broker	1, 4 , 153
Butyl rubber	127

C.

Cal-OSHA	123-125
CalTrans	136, 156
Cemeteries	22, 28, 31 , 45, 47, 159
Center for Analytical Chemistry	71
Central location	123, 125-126
Chemical liability	18
Chemical-resistant suit	121, 128
Chemigation	88, 93
Chloropicrin	54 , 57, 122
Cholinesterase	118, 119
Civil penalty	66, 74 , 76
Closed system	119, 120 , 129, 146
Commercial agricultural production	137
Commercial park	21, 22
Commercial use	90
Commissioner sales	156
Complaint investigation	65
Conflict with label	87 , 89, 103, 106, 114, 164

Conflict with label - exemptions	87
Conflict with Section 18	114
Construction pest control	20
Consumer fact sheet	117
Container disposal	53
Cooperative supplying pesticides	10
County registration - Adviser	42, 43
County registration - Ag PCB	15, 16, 19
County registration - refuse, revoke, suspend	3
County registration - conditions	3
County registration of pilots	38
Coverall	120-131
Crack and crevice	93, 96, 101
Crisis exemption	112, 113, 114
Crop disposition	48, 50
Crop rotation	48, 50

D.

Dealer - designated agent	1, 8
Dealer	1, 6
Decontamination	116, 117, 120, 121
Demonstration	23, 25, 27, 29, 30
Deodorizers	88, 93
Diluents	87, 89, 94, 106, 107
Directional statement	87
Direct supervision	102, 111, 143
Disease-producing organisms	12, 18
Doctor's first report	81
Dormant season	100
Drift	66, 144
Drift -- enforcement	66
Drift -- regulatory standards	67
Drift -- U.S. EPA Aerial application guidance	68
Dual use	10, 95

E.

Efficacy	88, 106, 113, 153
Egg laying facility	157
Electrostatic sprayers	98
Emergency exemption	85, 111, 112-114
Emergency preparedness	68
Employee	47, 120, 139
Employees laundering coveralls	116, 120
Employer	121, 132
Employer or employee	121
Endangered Species Act	78
Enclosed cab	121, 135
Enclosed cab - chemical cooled suit	121
Enclosure	68, 76
Equipment cleaning and decontamination	121
Equipment rental	23
Equivalency	115
Exact location	166
Exposure standard	132, 134
Eye protection	65, 129

F.

Fallow land	95, 101, 157
Family - immediate	126
Farm management firms	13, 18, 44, 46 , 147
Faulty recommendations	70
Fax	145, 151
Federal restricted use pesticide	7, 25, 26, 57
Feeding restrictions	95
Fee-exempt neighborhood operator	19
Fertilizer	88, 106, 114
Field workers	33, 115, 137, 138 , 139, 146
FIFRA	15, 85, 109-112
Fish and Game	24, 77, 78, 92
Fish and Wildlife Service	78
Fish kills	66
Fish ponds	157

Foggers	99 , 117
Foliar nutrient sprays	20
Food .. 29, 71, 93, 95, 96, 97, 99-102, 104, 105, 108, 141, 153	
Food area	96
Food handling establishment	93, 96 , 101, 105
Footwear	131
Forest	25, 27, 29, 45, 51 , 97 , 104, 136 , 137 , 163
Foresters - registered professional	51
Forestry use	97
Formaldehyde	69
Fly control	11, 20
Fraudulent claim	94
Fraudulent sales	70
Fraudulent statement	12
Fumigants	22, 54, 73, 107, 122
Fumigation Accident Response Plan	121
Fumigation - Branch 1	53, 61
Fumigation - tarp pullers as handlers	122
Fumigation - tree hole	122

G.

General treatment	97, 101
Gloves	129 , 130 , 131
Golf course	22, 31 , 40, 45 , 46 , 47 , 126, 152
Grain fumigation waiver	158
Greenhouse application sites	97-99
Greenhouse electrostatic sprayers	98
Greenhouse grown food crops	99
Greenhouse grown vegetable transplants	99, 162
Greenhouse pesticide use reports	162
Greenhouse use	97-99
Greenhouse use - foggers	99
Ground applications	89 , 101, 157
Ground water protection	7-9, 39, 151 , 151, 159, 162
Guidelines for physicians	118

H.

Handler . . .	64, 69, 115-118, 120, 122, 134, 137, 138, 139, 140
Handling - government personnel	123
Harvest date	100
Harvest prohibition	71
Hat	131
Hazard	49 , 67, 73, 91, 98
Hazard Communication	115-118, 125 , 129, 137, 140
Hazard Communication - MSDS availability	124
Hazard Communication - program	123, 125 , 127
Hazard Communication - records	125
Hazardous waste	53, 64, 73, 121
Hazards - long-term	138
Health related	26, 27, 30
Home garden use	28, 72 , 158
Home use	45 , 72, 89, 100 , 152
Hood	131
Horses	11, 45
Hospitals	28, 45, 119, 125
Household use	90
Hunters	137

I.

Immediate family - defined	126
Industrial use	45 , 51, 155, 156, 159, 162
Informational statement	86
Information requests	85
Institutional use	45 , 151
Interplanted crops	73 , 136
Investigative Sampling Manual	71
Irrigation	73, 93, 102, 105 , 155

J.

Job permit	146, 152
----------------------	-----------------

K.

Kerosene	94
KleenGuard®	128

L.

Labeling	85, 87, 92, 109
Label Improvement Program	122
Label interpretations	85, 86, 87, 90, 106
Laboratory - accredited commercial	71
Labor contractor	72, 121, 123, 138
Land disposal	64
Landscape maintenance	15, 21, 25, 26, 27, 28
Landscape services	21
Landscaping	20, 46
Late use reports	159
Launder	116, 117, 120
Libraries	45
Licensing procedure	15, 19, 42
Likely to enter	126, 137
Liquid-proof suit	130
Livestock	11, 12, 20, 45, 50, 92, 95, 96, 155, 157
Livestock sprays	11, 20
Long-term hazards	138

M.

Maintenance gardeners	1, 14, 15, 17, 18, 21, 22, 26, 124
Material Data Safety Sheets - MSDS	124, 138
Mattresses	107
Medical supervision	115, 116
Methyl bromide	57, 108, 122
Milking structure and equipment	159
MSHA	134
Monthly summary PUR	156, 157, 159, 162, 163
MSDS - Material Safety Data Sheets	123, 138
Mushroom farms PUR	160

N.

Natural rubber	127
Neoprene rubber	127
Negative use reports	160

NIOSH	131, 132, 134, 135
Nitrile rubber	127
Non-agricultural use	4, 142
Non-bearing crop	73, 100
Non-crop land	29, 95, 101 , 109, 117, 157
Non-food areas	101 , 102, 108
Notice of application	126 , 139
Notice of application - field posting	127
Notice of Intent	143-145, 147-148, 152, 156
Nursery	101, 102, 105, 161
Nylofume bags	107

O.

Office locations	xiii
Oil of wintergreen	93, 94
Operator identification number	7-9, 156, 157, 161
Ornamentals	102 , 157, 161
OSHA	69 , 123-125, 129, 131

P.

Packing house	13, 22 , 45, 69
Pants	128, 130
Parasite	12 , 18
Park ..	20, 21, 22, 28, 31 , 45, 47, 92, 103, 126, 136, 153, 160
Park superintendents	31
Particulate	65, 131, 132
Pasture	72, 101, 102 , 104, 157
Permit appeal process	148
Permit review request	148-149
Permits	44, 114, 141, 142, 143
PPE - chemical-resistant materials	127
PPE - coveralls	120, 128 , 130
PPE - coveralls - chemical-resistant suit	128
PPE - eyewear - antimicrobials	129
PPE - eyewear - eyewear and closed system	129
PPE - gloves - disposable	129

PPE - laundering by employees	120
PPE - respirator designations	131
PPE - respirator-employer responsibility	132
PPE - respirator inspection	132
PPE - respirator maintenance	133
PPE - respiratory protection - dusting sulfur	134
PPE - respiratory protection - enclosed cabs	135
PPE - respiratory protection - SCBA backup	135
PPE - shoes	131
Pesticide illness	82, 135
Pesticide Safety Information Series PSIS	116 , 119, 123, 137
Pesticides in flood waters	68
Pesticide Use Reports 14, 32, 54, 62, 72, 80, 95, 101, 145,	155
Pest control business 13 , 22, 46, 48, 51, 66, 80, 142, 147, 162	
Pest Management Zone	151
Physically present	102
Phytotoxicity	66, 103, 106
Pilot	1, 3, 6-9, 36-39 , 78, 80, 102
Plant agriculture	25, 27 , 29, 147
Plant back restriction	48, 50, 51, 103
Plastic suit	130
Polyethylene	128
Pool service	23
Post-harvest	22 , 160
Posting	77 , 126, 127 , 135-137 , 144-145
Posting - fields	135
Posting - forests	136
Posting - pest control vehicles	77
Posting - restricted entry interval - interplanted fields	136
Posting - restricted entry interval - public property	136
Poultry	45, 69, 162
Personal Protective Equipment-PPE	127
Precautionary statements	88, 91, 97, 98, 103
Predators	12 , 18
Preharvest interval	48, 50, 51, 71, 100
Preplant	95, 101 , 104 , 157

Private applicator reference manual	33
Private applicator certification	32
Private pilots	39
Processors	13, 22 , 162
Product registration	153
Program records	118
Property operator	47 , 126, 157, 159
PSIS A-8	116, 117, 123, 125
PSIS A-9	116, 123, 137
Public agency	47, 81
Public employee	47
PVC	127

Q.

Qualified applicator license	1, 6, 8, 14, 22, 24, 25 , 27, 80, 146
Qualified applicator certificate	1, 14, 15, 17, 24, 26 , 27, 31, 80

R.

Railroads	28, 52, 55, 58, 61, 62, 101
Railroad ties	24
Ranchette	72 , 101, 157
Rangeland	104
Recommendation	6, 11 , 14, 40, 46, 48 , 51, 88, 95
Recommendation - agricultural pest control	49
Recommendation - copies	49
Recommendations - faulty	70
Recommendations - hazards	49
Recommendations - labels	50
Recommendation - signing	50
Recommendation - written	51
Reentry intervals	48, 51, 115, 126, 136
Reference manual for private applicators	33
Regional Office locations	13
Registered professional foresters	51
Regulatory	15, 25, 27, 29 , 66, 67, 76, 87, 115, 116, 129
Research	30 , 52, 55, 58, 85, 97, 102

Research and Demonstration	23, 25, 27, 30
Research authorizations	164
Residential	25, 27, 28 , 30, 32, 45, 47, 98, 101, 152
Residue action level	112 , 114
Residue - excess	71, 72, 89, 103
Residues - illegal	71, 72, 98, 103, 164
Residue tolerance	73, 89, 94, 100, 110
Respirator	65, 87, 90, 116, 117, 131-135
Responsibility	51, 123, 132, 147, 152
Restaurant	20, 22, 125
Restricted Entry Interval	97, 109, 118, 136, 137
Restricted Entry Interval - arid areas	118
Restricted Entry Interval - beginning	137
Restricted Entry Interval - forest	137
Restricted Entry Interval - interplanted fields	136
Restricted Entry Interval - notification - forest	137
Restricted Entry Interval - public property	126, 136
Restricted Entry Interval - termination	137
Restricted Material	141-152
Restricted Material - Appeal process	147
Restricted Material - Home Use	152
Restricted Material Permit Evaluation	143
Restricted Material Permit Issuance	142
Restricted Materials, sales of	7
Retail store	10, 24
Right-of-way	24, 25, 27, 28 , 30, 45, 126, 135, 136, 145, 159
Rinsate disposal	73 , 88, 121
Rodent bait	162
Rodenticide	90, 92, 93, 105, 124, 143
Rubber	127, 128, 130, 131

S.

Saddle shop	11
Sales to SPCOs	57
Sales without a recommendation	11
Saranex®	128

SCBA - Self Contained Breathing Apparatus	122, 135
School	28, 45, 50, 125, 126, 136, 144
Season	50, 87, 89 , 100, 104 , 139, 146
Season - dormant	100
Section 18	85, 112 , 113, 114
Section 18 -- conflict with directions	114
Section 24c	85, 109
Seed crop	137
Seed treatment	13, 25, 27, 29 , 159, 162
Self Contained Breathing Apparatus - SCBA	122, 135
Service container	68, 77, 91, 92
Service person	90
Sharecropper	74
Shirt	128, 130
Shoes	131
Short-term exposure level - STEL	69
Silvicultural prescriptions	51
Smoke column	74 , 78
Soil incorporation	88, 101, 104
Special Local Need	85, 109 , 110 , 111
Spot treatment	96, 101, 104 , 145
Spray device	11 , 20
Sprinkler application	93, 104, 105
Stable	11, 20
Statute of limitations	74
STEL Short-term exposure level	69
Structural civil penalty	76
Structural Pest Control Act	61, 92
Structural Pest Control Applicator	2, 60
Structural Pest Control Board	xiii, 2, 3, 20, 28, 52, 55, 76
Structural pest control company	52 , 53, 55, 58, 92
Structural pest control field representative	2, 58
Structural pest control operator	2, 7, 20, 53, 55 , 57 , 93, 160, 163
Strychnine	10, 94
Sugar	88
Sulfur	64, 134

Surfactant	106
Surrounding structure	21, 22

T.

Tack shop	11
Tamper-resistant bait boxes	91, 92
Tank mix	73, 88, 106
Tarp pullers	122
Termite control - Branch 3	53, 56, 60
Time specific	147
Training	31 32, 37, 59, 115, 118, 125
Training - field workers	138
Training - field workers from out of state	138
Training - handlers - delayed effects	138
Training - handlers from out of state	138
Training - non-English speaking employees	139
Training verification program	139
Translation of the label	139
Transportation	32, 116, 117, 123, 146
Trapper	23
Treated area	76 , 103, 126, 137, 139
Treated field	95, 123, 135, 136, 139
Treated property	76, 139
Tree hole fumigation	122
Tributyltin	27, 30
Turf	21, 22, 28, 32, 45
Tyvek®	128

U.

Unattended	23, 76 , 92
Undergarment	128
Unregistered pesticides	71, 73, 153, 154
U.S. Fish and Wildlife Service	78

V.

Vector control	36, 46, 163
--------------------------	--------------------

Vector control district pilots	39
Vegetable oil	88, 94, 107
Vegetable transplant	99 , 162
Vehicle posting	77
Ventilation criteria	137
Vertebrate pest control	23
Vertebrate pest	13, 23 , 41
Veterinarian	12, 40, 45, 46
Vikane	107 , 108
Viton	127
Volatilization	66, 68

W.

Warning agent	54
Warning signs	54 , 136
Waterfowl in alfalfa	108
Waterproof suit	130
Weed oil	94
Western wear store	11
Wildlife	50, 77 , 78 , 90, 91, 155
Wind velocity	78
Wood	24 , 26-28, 30, 52, 53, 56, 59, 60, 61, 108, 163
Woodcutting	24
Wood for cooking	108
Wood preservative	24 , 26, 27 , 30 , 60
Wood pulp	163
Wood roof cleaning and treatment	53, 56, 59, 60
Wood treatment	24 , 28
Worker Protection Standard	See WPS below
WPS	109 , 115, 118-120, 126, 128, 137, 138, 139, 140
Worker Safety	16, 23, 90, 97, 109, 115-142
Worksite and workplace	140

INDEX OF CODE SECTIONS CITED

California Food and Agricultural Code

<u>Section</u>	<u>Page</u>
11401	40
11403	13
11407	6, 10
11408	12, 40, 44
11410	40
11411	40
11456	7
11531	13, 23, 24, 61
11701	1, 13, 14, 15, 25
11702	13, 14, 25
11703	1, 13, 14, 25
11704	1, 13, 21, 25
11705	13, 25
11706	13, 25
11708	13, 25
11709	13, 19, 25
11710	13, 24
11711	13
11732	1, 14
11734	1
11735	3
11791	94
11901	1, 14, 36, 39
11903	36
11904	1, 36
11905	36, 37
11906	36
11907	36, 37
11909	36, 38, 39
11911	36
11921	1, 37

<u>Section</u>	<u>Page</u>
11924	3
12001	23, 40, 47
12002	40
12003	40, 41, 49, 50
12004	14, 41, 42
12005	41
12021	1, 40, 41
12022	41
12023	41
12024	41
12031	1, 41
12033	41
12035	3, 41
12051	41
12052	41
12053	41
12054	41
12101	1, 6, 8, 10
12102	6
12103	1, 6
12104	6
12105	6
12106	6
12107	6
12108	6
12110	6
12111	6
12112	6
12113	6, 10
12115	6, 7
12121	6, 12
12201	1, 25
12202	25
12203	25
12204	25

<u>Section</u>	<u>Page</u>
12205	25
12206	25
12251	1
12252	1, 8
12253	8
12504	71
12601	71
12604	71
12648	71
12671	89
12672	71
12673	71
12753	153
12756	20
12758	88
12848	1, 4, 5
12971	70
12972	67
12973	66, 70, 87, 91, 92, 96, 103, 114
12978	126, 136
12993	153
12995	107, 153, 154
12999	75
13000	75
14005	141
14006	141, 143, 150
14007	141
14009	148
14012	155
14092	33, 34
14095	35
14099	34
14151	1
14152	1, 26
15204	2, 53

Title 16 California Code of Regulations - Structural Pest Control Board

<u>Section</u>	<u>Page</u>
1913-37	52
1948	53, 59, 60
1983	92

Title 3 California Code of Regulations - Pesticides and Pest Control Operations

6000	25, 26, 45, 87, 94, 114, 121, 123, 139, 140, 146, 147
6140	7
6260	64, 164
6266	164
6301	154
6400	8, 152, 153, 159
6402	152
6406	38
6426	49
6436	145
6460	67
6462	67
6464	67, 74
6466	67
6470	67
6511	26, 27, 37, 41
6524	13
6550	41
6560	6, 8, 10
6562	7, 10
6564	11
6566	49
6568	7, 9, 10, 57
6570	7, 151
6574	10
6600	88

6610	63
6614	66, 67, 68
6618	76, 126, 127, 136, 137, 139
6619	14

<u>Section</u>	<u>Page</u>
----------------	-------------

6624	14
6627	14
6630	77
6632	14, 47, 51
6670	77
6672	77
6686	73, 76
6700	123, 126, 137
6720	123, 125, 129
6723	118, 124, 125
6724	118, 120, 139
6726	135
6728	119
6730	123, 129
6732	123, 129
6736	120, 123, 128
6738	118, 119, 121, 128, 129, 132, 133, 134
6746	119, 129
6761	123, 125
6764	138
6772	137
6776	135, 136
6782	135
6784	122
6800	151, 159, 162
6895	94

Business and Professions Code - Structural Pest Control Operators

<u>Section</u>	<u>Page</u>
8505	54, 61
8507	58
8550	2
8552	20
8555	52, 55, 58, 61
8560	53, 56
8561	52, 56
8562	53, 55, 56
8563	58
8564	2, 58, 59, 60, 61
8566	59
8611	53
8612	53
8621	76
8674	2

Other Codes - State

California Civil Code § 1978 et seq	81
California Code of Civil Procedure § 340	76
California Evidence Code § 1040	83
California Government Code § 6250 et seq.	79
California Labor Code § 6393	124
California Public Resources Code § 5780 et seq	47

Other Codes - Federal

30 Code of Federal Regulations 11	131
40 Code of Federal Regulations 152	153
42 Code of Federal Regulations 84	131
Federal Insecticide Fungicide Rodenticide Act § 2.136	85
29 CFR 1910.1048	69

Index of DPR Letters and other References

Enforcement

Letter Number	Title	Page Numbers
ENF 75-008	Furadan 4 Flowable	108
ENF 75-017	Furadan - Coots	108
ENF 75-025	Applicators Who Follow Adviser's Recommendations	70
ENF 75-031	Gardeners and Landscape Maintenance Services Performing Pest Control Work	21
ENF 75-053	Golf Course Superintendents	46
ENF 75-054	Restricted Material Permit Cancellation - An Effective Enforcement Tool	142
ENF 76-025	Applying the Agricultural Use Definition to Pleasure Horses	11, 45
ENF 76-045	Feeding Restrictions on Pesticide Labels	96
ENF 76-048	Name and Address of Adviser on Written Recommendations	48
ENF 76-057	Interpretation of Pesticide Labels for Greenhouse Use	98
ENF 77-066	Use of Sprinkler Irrigation Systems for Application of Pesticides	105
ENF 78-029	Feeding Restrictions on Pesticide Labels	96
ENF 78-031	Feeding Restrictions on Pesticide Labels	96
ENF 78-033	Form Letter to be Sent to Each Applicant for an Experimental Use Permit	167

Letter Number	Title	Page Numbers
ENF 78-047	Written Recommendations - Warning Statements of Hazards Known to Exist	50
ENF 78-049	Licensing Requirements for Sales of Livestock Pest Sprays and Spray Devices	11, 20
ENF 78-057	Department Authority to Issue "Guidelines" and "Permit Conditions" for Pesticides	141
ENF 78-060	Pesticide Application in Food Handling Establishment	93, 96, 97, 101-105
ENF 78-065	Interpretation of Pesticide Labels for Greenhouse Use	98
ENF 78-071	Licensing Gardeners as Agricultural Pest Control Operators	21
ENF 78-074	Pesticide Use Inspections	63
ENF 78-083	Pesticide Use Inspections	63
ENF 79-042	Special Local Need Registrations and Emergency Exemptions	111
ENF 79-184	AB 3765 Regulations	152
ENF 80-019	Chloropicrin as a Warning Agent	54
ENF 80-040	Licensing Requirements for Post-Harvest Treatment in Packing Houses	22
ENF 80-096	Feeding Restrictions on Pesticide Labels	96
ENF 81-005	Enforcement Actions Based Upon Pesticide Labeling	105
ENF 81-007	Permit Requirements Section 24c and Section 18	114
ENF 81-011	Authorization Statement on Third-Party 24c Registration Labels	111

Letter Number	Title	Page Numbers
ENF 81-020	24-Hour NOI Waiver for Commodity Fumigation of Grain	158
ENF 81-023	Product Sales Differing from Adviser Recommendations	11
ENF 81-024	Agricultural Pest Control Operator License Information Sheet	19, 20, 22, 23
ENF 81-030	Properly Certifying PCA's Acting as Authorized Representatives for Purposes of Issuing Restricted Materials Permits	44
ENF 81-037	Grower Responsibility for Submitting NOI's	147, 152
ENF 81-043	Farm Management Firms	19
ENF 81-076	Department Policy Regarding the Release of Public Records	79
ENF 81-089	Written Recommendations	49
ENF 81-091	Predator Control Plans	18
ENF 82-013	Paraquat - Preplant Use	101, 104
ENF 82-015	Regulation Amendments Pertaining to 24-Hour Notices of Intent	143
ENF 82-041	Farm Management Firms (Amends ENF 81-043)	19
ENF 82-060	AB 1111 Regulation Changes (Worker Safety)	115
ENF 83-027	Policy on Need for an Adviser License	51
ENF 83-040	Agricultural Pest Control Adviser Policy (Confirms ENF 83- 027)	51
ENF 83-054	Legality of Deviating from the Requirements of the Label	72

Letter Number	Title	Page Numbers
ENF 83-080	Serviceperson Labeling	90
ENF 83-083	Neighborhood Pest Control Operators	19
ENF 83-084	Agricultural Pest Control Adviser Policy	106
ENF 83-088	Oil of Wintergreen	94
ENF 83-090	County Inspection Guide	63
ENF 83-095	Tamper-Proof Bait Boxes	91
ENF 84-027	Policy on Pest Control Incidental to Wood Cutting	24
ENF 84-039	Division Policy on the Release of Medical Records	79
ENF 84-047	Information on the Use of Vegetable Oils in California	94, 107
ENF 84-060	Authorization to Inspect Dealer Records	7
ENF 84-064	Closed System Protective Clothing Policy	119, 129
ENF 84-065	Closed Systems Manufacturers, Retailers, and Other Interested Parties	119
ENF 84-099	Changes in Pest Control Licenses and Certifications for 1985	19
ENF 85-012	Revised Scope of Applicator Categories	30
ENF 85-015	Recent Changes to Pesticide Dealer Responsibilities	9
ENF 85-029	County Rodenticide Programs	143
ENF 85-072	Written Recommendations	12, 51
ENF 86-020	SB 1047	136

Letter Number	Title	Page Numbers
ENF 86-022	Plant Back Restrictions (Contains many examples of label plant back statements)	103
ENF 86-023	Label Restrictions on Written Recommendations	48, 50
ENF 86-044	License Requirements for In-Ground Pole, General Wood or Railroad Tie Treaters for Hire	24
ENF 86-045	SPCO Licensing Requirement, Fly Control Devices	20
ENF 86-052	Residential Non-crop Areas	101
ENF 86-057	Pesticide Application to Interplant Cropping Systems	73
ENF 86-106	Wood preservation Sub-Category for Qualified Applicators	24
ENF 86-117	Summary of Changes Made to the Pesticide Worker Safety Regulations	115
ENF 86-118	EPA Restricted Use Wood Preservatives	24
ENF 87-002	Use of Disposable Coveralls for Body Protection	128
ENF 87-011	Exemption on Disposal of Aerosol Containers	54
ENF 87-019	Wood Preservatives Update	24
ENF 87-101	Research Authorization Procedures	165
ENF 88-009	Tributyltin Training and Examinations	31
ENF 88-010	Use of Pesticides on Wood Intended for Cooking	108
ENF 88-013	Restricted Material Permit Exemption for Home Use of Carbaryl (Sevin)	152
ENF 88-031	Posting of Signs on Pest Control Service Vehicles	76

Letter Number	Title	Page Numbers
ENF 88-069	Letter to Mr. Richard Nutter, Monterey County Agricultural Commissioner on Label Interpretations and Use with Fertilizers	106
ENF 88-081	Letter to Don Tompkins, Lake County Agricultural Commissioner	104
ENF 88-082	Letter to Ray Perkins, Yolo County Agricultural Commissioner	73
ENF 88-085	Financial Responsibility Requirements of Agricultural Pest Control and Maintenance Gardener and Pest Control Business Licensees	18
ENF 88-106	Financial Responsibility for Applicants for an Agricultural Pest Control Business License	18
ENF 88-115	Summary of Changes Made to the Pesticide Worker Safety Regulations	115
ENF 89-047	SB 2126 Agricultural Pest Control Advisers letter Number 2	46, 47
ENF 89-057	Chlorpyrifos (Lorsban, Dursban) Users	73
ENF 89-062	Thermal Foggers - Greenhouse Use	99
ENF 89-073	Worker Safety Regulations	90, 119, 120, 121, 122, 123, 135
ENF 89-116	Letter to Kenneth Delfino, Department of Forestry and Fire Protection	51
ENF 89-117	Licensing Requirements for Persons that Sell, Recommend or Apply Biological Control Agents	12, 18, 46
ENF 89-119	SB 2126 Agricultural Pest Control Advisers Letter number 4	40, 47

Letter Number	Title	Page Numbers
ENF 89-157	Use of Unregistered Pesticide Products	154
ENF 89-168	100% Pesticide Use Reporting Policy Letter Number 1	158
ENF 89-169	100% Pesticide Use Reporting Policy Letter Number 2	158
ENF 89-170	100% Pesticide Use Reporting Policy Letter Number 3	162
ENF 90-001	Use Reporting Requirements for Caltrans Policy Letter Number 4	156
ENF 90-005	100% Pesticide Use Reporting Policy Letter Number 6	161
ENF 90-013	100% Pesticide Use Reporting Policy Letter Number 5	163
ENF 90-019	100% Pesticide Use Reporting Policy Letter Number 7	72, 157
ENF 90-030	100% Pesticide Use Reporting and Site Identification Numbers for Mushroom Production Facilities Policy Letter Number 8	160
ENF 90-038	100% Pesticide Use Reporting Policy Letter Number 9	163
ENF 90-058	100% Pesticide Use Reporting Policy Letter Number 10	157, 159, 162, 163
ENF 90-067	Licensing Requirements for Permanent Stationary Wood Preservation	24, 30
ENF 90-074	Letter to Ron Gilman, Santa Barbara County Agricultural Commissioner	72

Letter Number	Title	Page Numbers
ENF 90-083	Use of Section 18 Emergency Exemptions in Conflict with Directions	114
ENF 90-085	Inactivated special Local Need Labeling	111
ENF 90-086	Guidelines for Authorizing Termination of Restricted Entry Intervals	137
ENF 90-093	Tank-Mixing Section 18 Emergency Exemptions	114
ENF 90-101	Dealers License Requirement for the Sale of Dual Label Pesticides	10, 11, 94
ENF 90-103	Sharecropper/Employee Role in Crop Production	74
ENF 90-122	100% Pesticide Use Reporting - Aquatic Treated Sites Policy Letter Number 11	156
ENF 90-133	Prokil Cryolite 96, EPA Reg. No. 10163-41, Gowan Company. Kryocide Insecticide, EPA Reg. No. 4581-116, Atochem North America	89
ENF 90-143	Private Applicator Certification Examination	146
ENF 90-149	Ground Water Protection Permits for Private Applicators	151
ENF 91-004	Increased Structural Monthly Use Report Stamp Fee and New Branch 4 Licensing Category	62
ENF 91-034	Closed System Suppliers	120
ENF 91-055	Licensing Requirements for Persons Using or Supervising the Use of Restricted Materials to Certain Non-Production Agricultural Areas (Golf Courses, Cemeteries)	31
ENF 91-076	Scope of the Maintenance Gardeners Pest Control Business License	22

Letter Number	Title	Page Numbers
ENF 92-028	Inactivated Special Local Need Labeling and Inactivation of Products on Special Local Need Labeling	111
ENF 92-047	Implementation of Worker Safety Hazard Communication Regulations	118, 123, 124, 125, 138, 140
ENF 92-064	Hazard Communication Regulations - Trainer Manual	115
ENF 93-014	Certified Applicator Requirements for Methomyl Lables that Have the "Physically Present" Statement on the Label	102
ENF 94-035	Greenhouse Grown Vegetable Transplants	98, 99
ENF 94-038	Federal Worker Protection Standard Update	118
ENF 94-060	Implementing the Federal Worker Protection Standard (WPS) Training Requirements in California	139
ENF 95-012	100% Pesticide Use Reporting: Fresh Market and Processed Commodities	95, 101
ENF 95-026	Oils Used as Diluents	94, 107
ENF 95-034	Policy Concerning Alternative Means of Signing Pest Control Recommendations	48, 50
ENF 95-052	FYI - Update on Empty Pesticide Bag Disposal	65
ENF 95-068	U.S. EPA Aerial Application Guidance Document	68
ENF 96-004	Cal/EPA's Policy on the Disposal of Properly Emptied Pesticide Bags	65

Letter Number	Title	Page Numbers
ENF 96-007	Amendments to enforcement Letter ENF 90-122, 100% Pesticide Use Reporting: Aquatic Treatment Sites Policy Letter Number 11	156
ENF 96-017	Pesticide Enforcement Branch Information Requests and Label Interpretations	86
ENF 96-019	Policy Change Concerning Plant Back Statements on Pesticide Labels	103
ENF 96-029	Federal Insecticide, Rodenticide, Fungicide Act Exemptions for Certain Pesticide Substances	153
ENF 96-054	1997 Private Applicator Certification Program Implementation and Senate Bill 800	34
ENF 96-060	Private Applicator Certification Examination Form PR-ENF-171 A/B	35
ENF 96-068	B&PC § 8505.10 Color and Contents of Signs; Size of Letters (Amended)	54
ENF 97-006	Cal/EPA's Policy on the Disposal of Properly Emptied Paper Bags	65
ENF 97-020	100% Pesticide Use Reporting and Site Identification Numbers for Mushroom Farms	160
ENF 97-023	Label Interpretation for Site/Marathon 1G	102
ENF 97-036	Pesticide Drift Enforcement Policy	66
ENF 97-042	Restricted Material permit Amendments approved via Faxes	151
ENF 97-044	Rodent Control and Use of Bait Boxes in Urban Areas	92
ENF 97-047	Pesticide Enforcement Information Requests and Label Interpretations (Supersedes 96-017)	86

Letter Number	Title	Page Numbers
ENF 97-054	Goal 2XL - Restricted Entry Interval for Non-crop Special Local Need	109
ENF 97-060	Enforcement Guidelines on Formaldehyde Pesticides with Label Reference to Federal OSHA Standards	70
ENF 97-061	Chipco Temik 10G Site Interpretation for Nursery Plantings	105
ENF 97-062	Private Applicator Certificate Form	33
ENF 97-065	Dual Use and restricted material Status of Cooke Gopher Mix and Other Strychnine Products	11, 95
ENF 97-066	100% Pesticide Use Reporting and Site Identification Numbers for Mushroom Farms - Addendum	160
ENF 97-076	Worker Protection Standard	97, 120, 126, 127, 137, 138, 139, 140
ENF 97-077	Dowelanco Vikane® Label Requirements Regarding Mattresses and Pillows Enveloped in Waterproof Covers and the Use of Nylofume® Bags	108
ENF 97-078	Private Applicator Certification Examination and Renewal Requirements	33
ENF 98-011	Placement of Rodenticide Blocks and Tamper Resistant Bait Station Labeling	92, 93
ENF 98-012	Authority and Statute of Limitations on Civil Penalty Actions for Pesticide Violations	76
ENF 98-013	Emergency Flood Preparedness Fact Sheet	69

Letter Number	Title	Page Numbers
ENF 98-014	Updated List of Enclosed Cabs Acceptable for Respiratory Protection.	135
ENF 98-029	Label Interpretation for DowElanco Transline® Specialty Herbicide	101

Executive Office Letters

Letter Number	Title	Page Number
EO 97-005	Restricted Materials Permit Review and Appeal Process	150

Information Request

Letter Number	Title	Page Number
IR 89-003	Eye Protection for Antimicrobials	129
IR 89-036	Worker Safety - Respiratory Protection	132
IR 90-078	Posting and Re-entry	136
IR 90-090	Label Review for Non-English Speaking Employees	139
IR 90-107	General Fumigation Safe Use Requirements	122

IR 90-122	Inspection of Respirators Maintained for Stand-by or Emergency Use	133
IR 91-009	Ranchettes 100% Use Reporting	72
IR 91-044	Worker Safety-Respiratory Protection (Section 6738(e)(9))	134
IR 91-059	On-Site Disposal of Pesticide Rinsate Containing Neutralizing or Cleaning Agents	73, 88, 121
IR 91-062	Respiratory Protection - Dusting Sulfur	134
IR 92-001	Identification of Long-term Hazards	138
IR 92-015	Hazard Communications Requirements in Forests	104, 136
IR 92-016	3CCR §6618(a) Notice - Structural Pest Control	139
IR 92-019	Mesurool 75% WP - Seasonal Use Restrictions	104
IR 94-006	Sale of Ag Use Pesticides to Homeowners	10
IR 94-010	Warning Sign Posting	136
IR 95-005	Worker Protection Standard Labeling - Undergarments	128

Label Interpretations

Letter Number	Title	Page Number
LI 95-001	Lorox Plant Back Restrictions	103
LI 95-003	Carrots with Tops Attached	91

Worker Health and Safety

Letter Number	Title	Page Number
WH&S 89-006	Clarification of Protective Clothing for Body Protection	128
WH&S 96-002	Clarification of Respiratory Protection Regulations	133
WH&S 97-004	Pesticide Safety Information Series Leaflets	118
WH&S 98-001	Application of Closed System Criteria	119
WH&S 98-002	Changes in Pesticide Respirator Designations	132

Other Documents

Title	Page Number
DPR News Release Number 97-011 -- Guidelines for Physicians (who supervise workers exposed to cholinesterase-inhibiting pesticides), 3rd Edition, 1995. Office of Environmental Health hazard Assessment, California Environmental Protection Agency.	118
U.S. EPA's Guide to Pest Control and Pesticide Safety	117
The Worker Protection Standard for Agricultural Pesticides - How to Comply: What Employees Need to Know, U.S. EPA Prevention, Pesticides and Toxic Substances EPA 735-B-93-001, July 1993	118
Personal Protective Equipment Guide, Coveralls, Gloves, and Other Skin Protection. U.S. EPA and Extension Service U.S.D.A.	131
New NIOSH Respirator Standards 42 CFR, Part 84	131

